

SENATE AMENDMENTS

2nd Printing

By: Guillen, Raymond, Muñoz, Jr., Lozano,
Lopez of Cameron, et al.

H.B. No. 800

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the punishment for certain criminal conduct involving
3 the smuggling of persons or the operation of a stash house;
4 increasing criminal penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 3.03, Penal Code, is amended by amending
7 Subsection (a) and adding Subsections (c) and (d) to read as
8 follows:

9 (a) When the accused is found guilty of more than one
10 offense arising out of the same criminal episode prosecuted in a
11 single criminal action, a sentence for each offense for which the
12 accused [~~he~~] has been found guilty shall be pronounced. Except as
13 otherwise provided by this section [~~Subsection (b)~~], the sentences
14 shall run concurrently.

15 (c)(1) This subsection applies only to a single criminal
16 action in which the accused is found guilty of:

17 (A) an offense under Section 20.05(a)(2) or an
18 offense under Section 20.06 involving conduct constituting an
19 offense under Section 20.05(a)(2); and

20 (B) an offense punishable under Section
21 22.01(b-1)(1), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or
22 38.04(b-1) that arises out of the same criminal episode as the
23 offense described by Paragraph (A).

24 (2) The sentence for an offense described by

1 Subdivision (1)(A) may run consecutively with each sentence for an
2 offense described by Subdivision (1)(B).

3 (3) If the accused is found guilty of more than one
4 offense described by Subdivision (1)(A), the sentences for those
5 offenses must run concurrently with each other.

6 (d) Except as otherwise provided by this subsection, if in a
7 single criminal action the accused is found guilty of more than one
8 offense arising out of the same criminal episode, the sentences may
9 run consecutively if each sentence is for a conviction of an offense
10 for which a plea agreement was reached in a case in which the
11 accused was charged with an offense described by Subsection
12 (c)(1)(A) and an offense described by Subsection (c)(1)(B). If the
13 accused is found guilty of more than one offense described by
14 Subsection (c)(1)(A), the sentences for those offenses must run
15 concurrently with each other.

16 SECTION 2. Section 12.50, Penal Code, is amended by
17 amending Subsections (a), (b), and (c) and adding Subsection (d) to
18 read as follows:

19 (a) Subject to Subsections [~~Subsection~~] (c) and (d), the
20 punishment for an offense described by Subsection (b) is increased
21 to the punishment prescribed for the next higher category of
22 offense if it is shown on the trial of the offense that the offense
23 was committed in an area that was, at the time of the offense:

24 (1) subject to a declaration of a state of disaster
25 made by:

26 (A) the president of the United States under the
27 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42

1 U.S.C. Section 5121 et seq.);

2 (B) the governor under Section 418.014,
3 Government Code; or

4 (C) the presiding officer of the governing body
5 of a political subdivision under Section 418.108, Government Code;
6 or

7 (2) subject to an emergency evacuation order.

8 (b) The increase in punishment authorized by this section
9 applies only to an offense under:

10 (1) Section 20.05;

11 (2) Section 20.06;

12 (3) Section 20.07;

13 (4) Section 22.01;

14 (5) [~~2~~] Section 28.02;

15 (6) [~~3~~] Section 29.02;

16 (7) [~~4~~] Section 30.02;

17 (8) [~~5~~] Section 30.03;

18 (9) [~~6~~] Section 30.04;

19 (10) [~~7~~] Section 30.05; and

20 (11) [~~8~~] Section 31.03.

21 (c) If an offense listed under Subsection (b) [~~(b)(1), (5),~~
22 ~~(6), (7), or (8)]~~ is punishable as a Class A misdemeanor, the
23 minimum term of confinement for the offense is increased to 180
24 days. Except as provided by Subsection (d), if [~~if~~] an offense
25 listed under Subsection (b) [~~(b)(2), (4), or (8)]~~ is punishable as a
26 felony of the first degree, the punishment for that offense may not
27 be increased under this section.

1 (d) Except as otherwise provided by this subsection, the
2 minimum term of imprisonment for an offense listed under Subsection
3 (b)(1), (2), or (3) for which punishment is increased under this
4 section is 10 years. If an offense listed under Subsection (b)(1)
5 or (2) is punishable as a felony of the first degree, the minimum
6 term of imprisonment is increased to 15 years unless another
7 provision of law applicable to the offense provides for a minimum
8 term of imprisonment of 15 years or more.

9 SECTION 3. Section 20.05, Penal Code, is amended by
10 amending Subsection (b) and adding Subsection (b-1) to read as
11 follows:

12 (b) Subject to Subsection (b-1), an [Aa] offense under this
13 section is a felony of the third degree with a term of imprisonment
14 of 10 years, except that the offense is:

15 (1) a felony of the second degree with a minimum term
16 of imprisonment of 10 years if:

17 (A) the actor commits the offense in a manner
18 that creates a substantial likelihood that the smuggled individual
19 will suffer serious bodily injury or death;

20 (B) the smuggled individual is a child younger
21 than 18 years of age at the time of the offense;

22 (C) the offense was committed with the intent to
23 obtain a pecuniary benefit;

24 (D) during the commission of the offense the
25 actor, another party to the offense, or an individual assisted,
26 guided, or directed by the actor knowingly possessed a firearm; or

27 (E) the actor commits the offense under

1 Subsection (a)(1)(B); or

2 (2) a felony of the first degree with a minimum term of
3 imprisonment of 10 years if:

4 (A) it is shown on the trial of the offense that,
5 as a direct result of the commission of the offense, the smuggled
6 individual became a victim of sexual assault, as defined by Section
7 22.011, or aggravated sexual assault, as defined by Section 22.021;
8 or

9 (B) the smuggled individual suffered serious
10 bodily injury or death.

11 (b-1) If at the punishment stage of the trial or at the time
12 of entering a plea agreement for an offense under this section
13 punishable as a felony of the third degree, the attorney
14 representing the state in the prosecution of the offense certifies
15 to the court in writing that the actor has provided significant
16 cooperation to the state or law enforcement, and describes the
17 manner of cooperation, the minimum term of imprisonment is five
18 years. The certification is confidential and shall be sealed by the
19 court, except that the certification may be accessed by the office
20 of the attorney representing the state, the attorney representing
21 the defendant, and the court. For purposes of this subsection,
22 "significant cooperation" includes:

23 (1) testifying in a trial on behalf of the state
24 against other parties to the offense;

25 (2) providing relevant information regarding the case
26 and other parties to the offense;

27 (3) providing information that furthers the

1 investigation of the charged offense and any other parties
2 involved; or

3 (4) providing information that aids law enforcement.

4 SECTION 4. Sections 20.06(e) and (f), Penal Code, are
5 amended to read as follows:

6 (e) Except as provided by Subsections (f) and (g), an
7 offense under this section is a felony of the second degree with a
8 minimum term of imprisonment of 10 years.

9 (f) An offense under this section is a felony of the first
10 degree with a minimum term of imprisonment of 10 years if:

11 (1) the conduct constituting an offense under Section
12 20.05 is conducted in a manner that creates a substantial
13 likelihood that the smuggled individual will suffer serious bodily
14 injury or death; or

15 (2) the smuggled individual is a child younger than 18
16 years of age at the time of the offense.

17 SECTION 5. Section 20.07(b), Penal Code, is amended to read
18 as follows:

19 (b) An offense under this section is a felony of the third
20 degree with a minimum term of imprisonment of five years, except
21 that the offense is a felony of the second degree with a minimum
22 term of imprisonment of five years if:

23 (1) the offense is committed under Subsection (a)(1)
24 and the property that is the subject of the offense is used to
25 commit or facilitate the commission of an offense under Section
26 20.06, 20A.03, or 43.05; or

27 (2) it is shown on the trial of the offense that as a

1 direct result of the commission of the offense:

2 (A) an individual became a victim of sexual
3 assault, as defined by Section 22.011, or aggravated sexual
4 assault, as defined by Section 22.021; or

5 (B) an individual suffered serious bodily injury
6 or death [~~Class A misdemeanor~~].

7 SECTION 6. Section 22.01(b-1), Penal Code, is amended to
8 read as follows:

9 (b-1) Notwithstanding Subsection (b), an offense under
10 Subsection (a)(1) is a felony of the third degree if:

11 (1) it is shown on the trial of the offense that the
12 actor committed the offense in the course of committing an offense
13 under Section 20.05(a)(2); or

14 (2) the offense is committed:

15 (A) [~~(1)~~] while the actor is committed to a civil
16 commitment facility; and

17 (B) [~~(2)~~] against:

18 (i) [~~(A)~~] an officer or employee of the
19 Texas Civil Commitment Office:

20 (a) [~~(i)~~] while the officer or
21 employee is lawfully discharging an official duty at a civil
22 commitment facility; or

23 (b) [~~(ii)~~] in retaliation for or on
24 account of an exercise of official power or performance of an
25 official duty by the officer or employee; or

26 (ii) [~~(B)~~] a person who contracts with the
27 state to perform a service in a civil commitment facility or an

1 employee of that person:

2 (a) [~~(i)~~] while the person or
3 employee is engaged in performing a service within the scope of the
4 contract, if the actor knows the person or employee is authorized by
5 the state to provide the service; or

6 (b) [~~(i)~~] in retaliation for or on
7 account of the person's or employee's performance of a service
8 within the scope of the contract.

9 SECTION 7. Chapter 28, Penal Code, is amended by adding
10 Section 28.10 to read as follows:

11 Sec. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR
12 STATE JAIL FELONIES. The punishment for an offense under this
13 chapter that is punishable as a misdemeanor or a state jail felony
14 is increased to the punishment for a felony of the third degree if
15 it is shown on the trial of the offense that the actor committed the
16 offense in the course of committing an offense under Section
17 20.05(a)(2).

18 SECTION 8. Section 30.02, Penal Code, is amended by
19 amending Subsection (c) and adding Subsection (c-2) to read as
20 follows:

21 (c) Except as provided in Subsection (c-1), (c-2), or (d),
22 an offense under this section is a:

23 (1) state jail felony if committed in a building other
24 than a habitation; or

25 (2) felony of the second degree if committed in a
26 habitation.

27 (c-2) An offense under this section is a felony of the third

1 degree if:

2 (1) the premises are a building other than a
3 habitation; and

4 (2) it is shown on the trial of the offense that the
5 actor committed the offense in the course of committing an offense
6 under Section 20.05(a)(2).

7 SECTION 9. Section 30.04(d), Penal Code, is amended to read
8 as follows:

9 (d) An offense under this section is a Class A misdemeanor,
10 except that:

11 (1) the offense is a Class A misdemeanor with a minimum
12 term of confinement of six months if it is shown on the trial of the
13 offense that the defendant has been previously convicted of an
14 offense under this section;

15 (2) the offense is a state jail felony if:

16 (A) it is shown on the trial of the offense that
17 the defendant has been previously convicted two or more times of an
18 offense under this section; or

19 (B) the vehicle or part of the vehicle broken
20 into or entered is a rail car; and

21 (3) the offense is a felony of the third degree if:

22 (A) the vehicle broken into or entered is owned
23 or operated by a wholesale distributor of prescription drugs~~[+]~~ and

24 ~~[(B)]~~ the actor breaks into or enters that
25 vehicle with the intent to commit theft of a controlled substance;

26 or

27 (B) it is shown on the trial of the offense that

1 the actor committed the offense in the course of committing an
2 offense under Section 20.05(a)(2).

3 SECTION 10. Section 30.05(d), Penal Code, is amended to
4 read as follows:

5 (d) Subject to Subsection (d-3), an offense under this
6 section is:

7 (1) a Class B misdemeanor, except as provided by
8 Subdivisions (2), ~~and~~ (3), and (4);

9 (2) a Class C misdemeanor, except as provided by
10 Subdivisions ~~[Subdivision]~~ (3) and (4), if the offense is
11 committed:

12 (A) on agricultural land and within 100 feet of
13 the boundary of the land; or

14 (B) on residential land and within 100 feet of a
15 protected freshwater area; ~~and~~

16 (3) a Class A misdemeanor, except as provided by
17 Subdivision (4), if:

18 (A) the offense is committed:

19 (i) in a habitation or a shelter center;

20 (ii) on a Superfund site; or

21 (iii) on or in a critical infrastructure
22 facility;

23 (B) the offense is committed on or in property of
24 an institution of higher education and it is shown on the trial of
25 the offense that the person has previously been convicted of:

26 (i) an offense under this section relating
27 to entering or remaining on or in property of an institution of

1 higher education; or

2 (ii) an offense under Section 51.204(b)(1),
3 Education Code, relating to trespassing on the grounds of an
4 institution of higher education;

5 (C) the person carries a deadly weapon during the
6 commission of the offense; or

7 (D) the offense is committed on the property of
8 or within a general residential operation operating as a
9 residential treatment center; and

10 (4) a felony of the third degree if it is shown on the
11 trial of the offense that the defendant committed the offense in the
12 course of committing an offense under Section 20.05(a)(2).

13 SECTION 11. Section 38.04, Penal Code, is amended by adding
14 Subsection (b-1) to read as follows:

15 (b-1) Notwithstanding Subsection (b), an offense under this
16 section is a felony of the third degree if it is shown on the trial
17 of the offense that the actor committed the offense in the course of
18 committing an offense under Section 20.05(a)(2).

19 SECTION 12. The changes in law made by this Act apply only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 governed by the law in effect on the date the offense was committed,
23 and the former law is continued in effect for that purpose. For
24 purposes of this section, an offense was committed before the
25 effective date of this Act if any element of the offense was
26 committed before that date.

27 SECTION 13. This Act takes effect September 1, 2023.

ADOPTED

V V
MAY 24 2023

FLOOR AMENDMENT NO. 1

Lately Law
Secretary of the Senate

BY:

Peter P. Stone

1 Amend H.B. No. 800 (senate committee printing) as follows:

2 (1) In the recital to SECTION 3 of the bill (page 2, line
3 39), strike "Subsection (b)" and substitute "Subsections (a) and
4 (b)".

5 (2) Immediately following the recital to SECTION 3 of the
6 bill (page 2, between lines 40 and 41), insert the following:

7 (a) A person commits an offense if the person knowingly:

8 (1) uses a motor vehicle, aircraft, watercraft, or
9 other means of conveyance to transport an individual with the
10 intent to:

11 (A) conceal the individual from a peace officer or
12 special investigator; or

13 (B) flee from a person the actor knows is a peace
14 officer or special investigator attempting to lawfully arrest or
15 detain the actor;

16 (2) encourages or induces a person to enter or remain
17 in this country in violation of federal law by concealing,
18 harboring, or shielding that person from detection; or

19 (3) assists, guides, or directs two or more individuals
20 to enter or remain on a cultural resource site or area, natural
21 area, open space area, park, or agricultural land without the
22 effective consent of the owner.

23 (3) Add the following appropriately numbered SECTION to the
24 bill and renumber subsequent SECTIONS of the bill accordingly:

25 SECTION ____ . Section 20.01, Penal Code, is amended by adding

1 Subdivision (9) to read as follows:

2 (9) "Cultural resource site or area," "natural area,"
3 "open space area," and "park" have the meanings assigned by Section
4 24.001, Parks and Wildlife Code.

ADOPTED

✓✓
MAY 24 2023

FLOOR AMENDMENT NO. 2

Lately Law
Secretary of the Senate

BY: *J. J. Hing*

1 Amend H.B. No. 800 (senate committee printing) as follows:

2 (1) In the recital to SECTION 3 of the bill (page 2, line
3 39), strike "Subsection (b-1)" and substitute "Subsections (b-1)
4 and (b-2)".

5 (2) In SECTION 3 of the bill, in amended Section 20.05(b),
6 Penal Code (page 2, line 41), strike "Subsection (b-1)" and
7 substitute "Subsections (b-1) and (b-2)".

8 (3) In SECTION 3 of the bill, immediately following added
9 Section 20.05(b-1), Penal Code (page 3, between lines 17 and 18),
10 insert the following:

11 (b-2) At the punishment stage of a trial of an offense under
12 this section, other than an offense punishable under Subsection
13 (b) (1) (A) or (b) (2), the actor may raise the issue as to whether
14 the actor is related to the smuggled individual in the third or
15 fourth degree of consanguinity or, at the time of the offense, in
16 the third or fourth degree of affinity. If the actor proves the
17 issue in the affirmative by a preponderance of the evidence, the
18 offense is a felony of the third degree with a minimum term of
19 imprisonment of five years.

ADOPTED

FLOOR AMENDMENT NO. 3

^{YV}
MAY 24 2023

BY:

Bridwell

Lately Law
Secretary of the Senate

1 Amend H.B. No. 800 (senate committee printing) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION ____ . Chapter 38, Penal Code, is amended by adding
5 Section 38.20 to read as follows:

6 Sec. 38.20. IMPROPER ENTRY FROM FOREIGN NATION. (a) In
7 this section, "alien" has the meaning assigned by 8 U.S.C. Section
8 1101, as that provision existed on January 1, 2023.

9 (b) A person who is an alien commits an offense if the
10 person:

11 (1) enters or attempts to enter this state from a
12 foreign nation at any location other than a lawful point of entry;

13 (2) eludes examination or inspection by United States
14 immigration officers; or

15 (3) attempts to enter or obtains entry to this state
16 from a foreign nation by an intentionally false or misleading
17 representation or the intentional concealment of a material fact.

18 (c) An offense under this section is a Class A misdemeanor,
19 except that if it is shown on the trial of the offense that the
20 person has previously been finally convicted of:

21 (1) an offense under this section, the offense is a
22 state jail felony;

23 (2) a state jail felony described by Subdivision (1) or
24 any other felony not listed in Article 42A.054(a), Code of Criminal
25 Procedure, the offense is a felony of the second degree; or

1 (3) a felony listed in Article 42A.054(a), Code of
2 Criminal Procedure, the offense is a felony of the first degree.

3 (d) It is an affirmative defense to prosecution under this
4 section that:

5 (1) the actor has been granted a federal immigration
6 benefit entitling the actor to:

7 (A) lawful presence in the United States; or

8 (B) asylum under 8 U.S.C. Section 1158;

9 (2) the actor's conduct does not constitute a violation
10 of 8 U.S.C. Section 1325(a); or

11 (3) the actor was approved for benefits under the
12 federal Deferred Action for Childhood Arrivals program between
13 June 15, 2012, and July 16, 2021.

14 (e) For purposes of Subsection (d)(1), the following federal
15 programs do not confer federal immigration benefits entitling the
16 actor to lawful presence in the United States:

17 (1) the Deferred Action for Parents of Americans and
18 Lawful Permanent Residents; and

19 (2) any program not enacted by the United States
20 Congress that is a successor to or materially similar to the
21 program described by Subdivision (1) or Subsection (d)(3).

22 (f) A court may not abate the prosecution of an offense under
23 this section on the basis that a federal determination regarding
24 the immigration status of the actor is pending.

25 (g) A law enforcement officer of the Department of Public
26 Safety who arrests a person for an offense under this section
27 shall, to the extent feasible, detain the person in a facility

1 established under Operation Lone Star or a similar border security
2 operation of this state.

3 SECTION ____ . It is the intent of the legislature that every
4 provision, section, subsection, sentence, clause, phrase, or word
5 in this Act, and every application of the provisions in this Act
6 to every person, group of persons, or circumstances, is severable
7 from each other. If any application of any provision in this Act
8 to any person, group of persons, or circumstances is found by a
9 court to be invalid for any reason, the remaining applications of
10 that provision to all other persons and circumstances shall be
11 severed and may not be affected.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB800 by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **As Passed 2nd House**

Creating a new criminal offense, expanding the conduct constituting an existing offense, and increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement. The fiscal implications of the bill cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to a criminal penalty under the provisions of the bill.

The bill would increase the minimum term of imprisonment to 10 years for the offenses of smuggling of persons and continuous smuggling of persons, except that the minimum term of imprisonment for the offense of smuggling of persons would be 5 years under certain conditions. The bill would expand the conduct constituting the felony offense of smuggling of persons to include knowingly assisting, guiding, or directing two or more individuals to enter or remain on a cultural resource site or area, natural area, open space area, or park without the effective consent of the owner.

The bill would increase the minimum term of imprisonment to 5 years for the offense of operation of a stash house and make it punishable as a third degree felony or as a second degree felony under certain conditions.

The bill would provide for punishment at the next highest category of offense with a 10 year minimum term of imprisonment for the offenses of smuggling of persons, continuous smuggling of persons, and operation of a stash house when the offense is committed in a disaster or evacuated area, except that the minimum term of imprisonment would be 15 years if the smuggling of persons or continuous smuggling of persons offense is a first degree felony.

The bill would provide felony punishment enhancements and consecutive sentencing for certain offenses when committed in the course of smuggling of persons into this country in violation of federal law.

The bill would create the Class A misdemeanor offense of improper entry from a foreign nation. The penalty would be increased to a state jail felony in the case of a previous conviction of the offense and increased to a second or first degree felony in the case of certain previous felony convictions. The bill would require a DPS law enforcement officer who arrests a person for such an offense, to the extent feasible, to detain the person in a facility established under Operation Lone Star or a similar border security operation of this state.

While the impact on state correctional populations or on the demand for state correctional resources cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to a criminal penalty under the provisions of the bill, it could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

Based on the February 2023 *Criminal and Juvenile Justice Uniform Cost Report*, the uniform cost per day for an adult incarcerated in a Texas Department of Criminal Justice systemwide facility was \$77.49.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, creating a new criminal offense, expanding the conduct constituting an existing offense, and increasing the penalty for an existing offense may result in additional demands upon local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, DDeI, LBO, ESch, DGI, SMAT

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB800 by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **As Engrossed**

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement. The fiscal implications of the bill cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

The bill would provide for punishment at the next highest category of offense with a ten year minimum term of imprisonment for the offenses of smuggling of persons, continuous smuggling of persons, and operation of a stash house when the offense is committed in a disaster or evacuated area, except that the minimum term of imprisonment would be fifteen years if the smuggling of persons or continuous smuggling of persons offense is a first degree felony. The bill would provide felony punishment enhancements and consecutive sentencing for certain offenses when committed in the course of smuggling of persons into this country in violation of federal law. The impact on state correctional populations or on the demand for state correctional resources related to these increased penalties cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

The bill would increase the minimum term of imprisonment to ten years for the offenses of smuggling of persons and continuous smuggling of persons, except that the minimum term of imprisonment for the offense of smuggling of persons would be five years if the actor provided certain significant cooperation to the state or law enforcement. The bill would increase the minimum term of imprisonment to five years for the offense of operation of a stash house and make it punishable as a third degree felony or as a second degree felony under certain conditions. The average length of stay for an individual released from prison in fiscal year 2022 for the offenses of smuggling of persons and continuous smuggling of persons was approximately 1.0 year. The estimated impact on adult correctional populations would follow both the fiscal year 2022 observed rate of admission to prison and the average time between offense and admission to prison for these smuggling offenses. The impact on state correctional populations related to the increased minimum terms of confinement could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

Based on the February 2023 *Criminal and Juvenile Justice Uniform Cost Report*, the uniform cost per day for an adult incarcerated in a Texas Department of Criminal Justice systemwide facility was \$77.49.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, increasing the penalty for an existing offense may result in additional demands upon local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, DDel, LBO, DGI, SMAT

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 12, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB800** by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons, the operation of a stash house, or evading an arrest or detention; increasing criminal penalties.), **As Introduced**

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement. The fiscal implications of the bill cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

The bill would provide for punishment at the next highest category of offense with a ten year minimum term of imprisonment for the offenses of smuggling of persons, continuous smuggling of persons, and operation of a stash house when the offense is committed in a disaster or evacuated area. The bill would provide felony punishment enhancements for certain offenses when committed in the course of smuggling of persons into this country in violation of federal law or in the course of evading arrest or detention. The impact on state correctional populations or on the demand for state correctional resources related to these increased penalties cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

The bill would increase the minimum term of imprisonment to ten years for the offenses of smuggling of persons and continuous smuggling of persons. The bill would increase the minimum term of imprisonment to five years for the offense of operation of a stash house and increase the penalty from a Class A misdemeanor to a third degree felony. The average length of stay for an individual released from prison in fiscal year 2022 for the offenses of smuggling of persons and continuous smuggling of persons was approximately 1.0 year. The estimated impact on adult correctional populations would follow both the fiscal year 2022 observed rate of admission to prison and the average time between offense and admission to prison for these smuggling offenses. In addition, the length of stay for this estimate is based on the minimum term of imprisonment of ten years outlined in the bill's provisions. The impact on state correctional populations related to the increased minimum terms of confinement could be significant due to the increased terms of confinement and the subsequent compounding increase in demand for prison bed capacity.

Based on the February 2023 *Criminal and Juvenile Justice Uniform Cost Report*, the uniform cost per day for an adult incarcerated in a Texas Department of Criminal Justice systemwide facility was \$77.49.

Local Government Impact

While the fiscal impact to units of local government cannot be determined, increasing the penalty for an existing offense may result in additional demands upon local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

LBB Staff: JMc, SMAT, LBO, DGI

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

88TH LEGISLATIVE REGULAR SESSION

May 17, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Border Security

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB800 by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons or the operation of a stash house; increasing criminal penalties.), **As Engrossed**

The bill would increase the minimum term of imprisonment to ten years for the offenses of smuggling of persons and continuous smuggling of persons, except that the minimum term of imprisonment for the offense of smuggling of persons would be five years if the actor provided certain significant cooperation to the state or law enforcement. The bill would increase the minimum term of imprisonment to five years for the offense of operation of a stash house and make it punishable as a third degree felony or as a second degree felony under certain conditions. The bill would provide for punishment at the next highest category of offense with a ten year minimum term of imprisonment for the offenses of smuggling of persons, continuous smuggling of persons, and operation of a stash house when the offense is committed in a disaster or evacuated area, except that the minimum term of imprisonment would be fifteen years if the smuggling of persons or continuous smuggling of persons offense is a first degree felony. The bill would provide felony punishment enhancements and consecutive sentencing for certain offenses when committed in the course of smuggling of persons into this country in violation of federal law.

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement.

In fiscal year 2022, there were 6,599 individuals arrested, 202 individuals placed on adult community supervision, and 150 individuals admitted to an adult state correctional institution for felony smuggling of persons and continuous smuggling of persons offenses which would be subject to a minimum ten year term of imprisonment under the bill's provisions. There were 116 individuals arrested and 1 individual placed on adult community supervision for the offense of operation of a stash house which would be punishable as a third degree felony with a minimum five year term of imprisonment under the bill's provisions.

In fiscal year 2022, there were 106,193 individuals arrested, 12,517 individuals placed on adult community supervision, 8,855 individuals placed on juvenile community supervision, 1,331 individuals admitted to an adult state correctional institution, and 98 individuals admitted to a juvenile state correctional institution for an offense that may have been eligible for an increased penalty under the bill's provisions. However, it is unknown how many of these cases included conduct eligible for an increased penalty under the bill's provisions.

The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

Source

Agencies:

LBB Staff: JMc, DDeI, LBO, DGI, SMAT

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

88TH LEGISLATIVE REGULAR SESSION

April 12, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB800 by Guillen (Relating to the punishment for certain criminal conduct involving the smuggling of persons, the operation of a stash house, or evading an arrest or detention; increasing criminal penalties.), **As Introduced**

The bill would increase the minimum term of imprisonment to ten years for the offenses of smuggling of persons and continuous smuggling of persons. The bill would increase the minimum term of imprisonment to five years for the offense of operation of a stash house and make it punishable as a third degree felony or as a second degree felony under certain conditions. The bill would provide for punishment at the next highest category of offense with a ten year minimum term of imprisonment for the offenses of smuggling of persons, continuous smuggling of persons, and operation of a stash house when the offense is committed in a disaster or evacuated area. The bill would provide felony punishment enhancements for certain offenses when committed in the course of smuggling of persons into this country in violation of federal law or in the course of evading arrest or detention.

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement.

In fiscal year 2022, there were 6,599 individuals arrested, 202 individuals placed on adult community supervision, and 150 individuals admitted to an adult state correctional institution for felony smuggling of persons and continuous smuggling of persons offenses which would be subject to a minimum ten year term of imprisonment under the bill's provisions. There were 116 individuals arrested and 1 individual placed on adult community supervision for the offense of operation of a stash house which would be punishable as a third degree felony with a minimum five year term of imprisonment under the bill's provisions.

In fiscal year 2022, there were 106,193 individuals arrested, 12,517 individuals placed on adult community supervision, 8,855 individuals placed on juvenile community supervision, 1,331 individuals admitted to an adult state correctional institution, and 98 individuals admitted to a juvenile state correctional institution for an offense that may have been eligible for an increased penalty under the bill's provisions. However, it is unknown how many of these cases included conduct eligible for an increased penalty under the bill's provisions.

The impact on state correctional populations or on the demand for state correctional resources cannot be determined due to the lack of data to estimate the prevalence of conduct that would be subject to an increased criminal penalty under the bill's provisions.

Source

Agencies:

LBB Staff: JMc, SMAT, LBO, DGI

