|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| C.S.S.B. 36 |
| By: Parker |
| Homeland Security, Public Safety & Veterans' Affairs |
| Committee Report (Substituted) |

|  |
| --- |
| **BACKGROUND AND PURPOSE**  The bill sponsor has informed the committee that Texas faces an increasingly complex set of homeland security challenges, ranging from border-related issues to protecting critical infrastructure and ensuring preparedness for disasters or emergencies. Currently, responsibilities for these efforts are spread across multiple agencies and divisions within the Department of Public Safety (DPS), as well as among local, state, and federal partners. The bill sponsor has further informed the committee that this decentralized approach can result in duplicative efforts, communication gaps, and inconsistency in setting strategic and operational priorities and that safeguarding critical infrastructure requires consistent collaboration with both public and private stakeholders. While DPS has long been tasked with public safety and law enforcement activities, there is no single division formally dedicated to homeland security planning and coordination for the entire state. C.S.S.B. 36 seeks to strengthen Texas' capacity to manage homeland security issues, particularly in border security, critical infrastructure protection, and preparedness, by formally establishing a Homeland Security Division within DPS. |
| **CRIMINAL JUSTICE IMPACT**  It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY**  It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS**  C.S.S.B. 36 amends the Government Code to set out provisions relating to the homeland security activities of certain entities, including the establishment and operations of the Homeland Security Division in the Department of Public Safety (DPS).  **Homeland Security Division**  Composition  C.S.S.B. 36 establishes the Homeland Security Division in DPS to lead multi-agency, multi‑jurisdictional, and public-private efforts to enhance law enforcement initiatives and operations in support of homeland security objectives in Texas. The bill requires the public safety director to appoint the chief of the division with the consent of the Public Safety Commission. The bill establishes that the chief acts as the chief administrative officer of the division and is under the supervision and direction of the director, and to the extent the director determines, a deputy director of DPS.  C.S.S.B. 36 authorizes the chief to employ deputy chiefs and other employees as necessary to perform the duties or exercise the powers of the division or to perform any duty or exercise any power of DPS assigned to the division. The bill authorizes the chief to delegate any power or duty assigned to the division or chief unless prohibited by statute or rule.  Border Security  C.S.S.B. 36 requires the division, in collaboration with any other person who by law performs similar duties, to do the following:   * provide the strategic and operational planning for the state's border security operations; and * support the state's border security operations by coordinating the law enforcement efforts of federal and state agencies, local governments, and private organizations and by ensuring clarity and alignment on the law enforcement priorities and responsibilities of each stakeholder.   The bill requires the division to assist DPS as necessary, including each DPS region, with DPS's tactical planning of border security operations and requires the division to produce intelligence and similar reports as necessary to provide the assistance.  C.S.S.B. 36 requires the division to do the following with respect to intelligence relating to the state's border security operations:   * coordinate the collection, dissemination, and analysis of intelligence for the state's border security operations and operate intelligence centers dedicated to that purpose; * establish policies and procedures relating to the collection and management of intelligence, including establishing collection priorities and assigning the management responsibilities, for state agencies, local governments, and any private organizations participating in border security operations; * analyze and assess collected intelligence to produce information bulletins and other similar reports considered advisable; and * manage the program for the installation and monitoring of cameras and surveillance equipment along the Texas-Mexico border, known as Operation Drawbridge.   Planning and Preparedness  C.S.S.B. 36 requires the division, in collaboration with any other person who by law performs similar duties, to do the following:   * regularly develop a comprehensive homeland security strategic plan for Texas; * plan and facilitate homeland security exercises in coordination with the Texas Division of Emergency Management and other state agencies, federal agencies, local governments, and any participating private organizations; * develop operational and tactical plans for significant law enforcement emergencies or contingencies, including assisting each DPS region with developing plans specific to the needs of that region; * conduct assessments of the following:   + the risks and hazards posed to the state by criminal actors and organizations; and   + the capabilities of state and local stakeholders to respond to the occurrence of those risks and hazards, including by coordinating the annual completion by state agencies and local governments of the following federal assessments:     - the Threat and Hazard Identification and Risk Assessment; and     - the Stakeholder Preparedness Review; * establish programs for regular outreach to and information sharing among public and private organizations regarding threats by criminal actors and organizations, including:   + coordinating the Bomb-Making Materials Awareness Program and similar programs; and   + ensuring private industry organizations are aware of the following:     - criminal threats to critical infrastructure, such as espionage and sabotage operations;     - best practices for protecting critical infrastructure from criminal actors and organizations; and     - available law enforcement resources to assist in protecting critical infrastructure from criminal actors and organizations and responding to those threats; and * assist state agencies and local governments in complying with restrictions under federal law on commerce with certain entities, including any entity:   + listed in Supplement No. 4 to 15 C.F.R. Part 744;   + identified as a Chinese military company by the United States Secretary of Defense in accordance with Section 1260H of the federal National Defense Authorization Act for Fiscal Year 2021; or   + restricted under any similar sanction program under federal law.   The bill requires the division to develop any additional assessment for risks and hazards posed by criminal actors and organizations the division considers necessary and to include in the strategic plan recommendations to mitigate those risks and hazards. The bill authorizes the division to administer, or assist DPS in administering, an internship program for students and other interested persons to participate in the operations of the division, or DPS, as appropriate.  Physical Protection of Critical Infrastructure  C.S.S.B. 36 requires the division to coordinate multi-agency, multi-jurisdictional, and public‑private efforts to protect the critical infrastructure in Texas from criminal actors and organizations. The bill requires the division, within the 16 critical infrastructure sectors identified by the National Security Memorandum on Critical Infrastructure Security and Resilience (NSM-22) issued by the president of the United States, to prioritize the division's efforts in ensuring the physical protection of critical infrastructure in the energy, communications, transportation systems, and water and wastewater systems sectors. The bill authorizes the division, with respect to potential threats to the critical infrastructure in Texas, to analyze and assess collected intelligence to produce information bulletins and other similar reports considered advisable.  C.S.S.B. 36 requires the division to develop a system to identify and categorize critical infrastructure in Texas for the purpose of facilitating initiatives to protect the critical infrastructure from criminal actors and organizations, including for facilitating any risk assessment of critical infrastructure assets or systems in Texas and identifying any dependency or interdependency among those assets or systems. In addition, the bill requires the division to do the following:   * conduct exercises to enhance public-private coordination in protecting the critical infrastructure of Texas from criminal actors and organizations; * provide support to the state operations center under the Texas Division of Emergency Management during any disaster, defined by reference to the Texas Disaster Act of 1975; and * operate a program to train volunteers from public and private organizations to collect or receive intelligence information related to threats to critical infrastructure and to properly identify threats to critical infrastructure and report those threats to DPS.   The bill authorizes the division to set reasonable eligibility requirements for the training program.  Work Groups; Study of Technologies  C.S.S.B. 36 does the following:   * authorizes the division to establish and appoint members to one or more work groups to study any issue related to the division's duties or the state's law enforcement initiatives or operations and advise or produce written reports on those issues; authorizes such a work group to be composed of representatives from state and federal agencies, local governments, and private organizations; and authorizes the division to provide administrative support for any work group; and * requires the division, in collaboration with any person who by law performs similar duties, to establish or operate work groups to study methods or technologies to enhance the state's border security operations and the security of the critical infrastructure of Texas, including any task force established to survey the vulnerabilities of state government, local governments, and critical infrastructure.   Research  C.S.S.B. 36 requires the division to annually propose to the Public Safety Commission the research priorities and a research agenda for DPS. The bill requires the division to coordinate with public institutions of higher education to enhance the research capabilities of the institutions and DPS by sharing information and aligning priorities. The bill requires the division to research new technologies to enhance the law enforcement initiatives and operations conducted by the state, including any border security operation conducted by a state agency, local government, or private organization.  C.S.S.B. 36 requires the division, on request, to provide subject matter expertise and counsel to a state agency or local government regarding the state's border security operations and critical infrastructure protection initiatives, including related grant programs, legislation, risk management assessments, and other initiatives. The bill requires the division to confer with each state agency involved in any homeland security activity before each legislative session regarding the portion of the state agency's budget request that finances the agency's homeland security activities and to coordinate with the state agencies to eliminate unnecessary redundancies and increase the efficiency of state agency efforts in conducting homeland security activities. The bill defines "homeland security activity" for these provisions as any activity related to the prevention or discovery of, response to, or recovery from a terrorist attack, a hostile military or paramilitary action, or an extraordinary law enforcement emergency.  Grant and Reimbursement Programs  C.S.S.B. 36 requires the division, in collaboration with the governor, to set priorities and guidelines for a grant or reimbursement program administered by a state agency or local government related to preparedness against terrorist or criminal threats or to border security, including priorities for intended outcomes and guidelines for assessing the effectiveness of the program, notwithstanding any other law establishing the program. The bill requires the governor and the division, in setting those priorities and guidelines, to account for any federal grant money secured and any accompanying restrictions or requirements imposed by the federal agency awarding the grant.  Website and Reports  C.S.S.B. 36 requires the division to maintain a publicly accessible website and publish assessments and other reports produced by the division that are not excepted from disclosure under the public availability requirement of state public information law and not confidential.  Sensitive Information Provided by Private Organization  C.S.S.B. 36 sets out the following provisions that apply if, in performing any duty or exercising any authority under the bill's provisions, the division or a work group or task force of the division is provided information by a private organization that the private organization considers highly sensitive, proprietary, or otherwise confidential and the private organization notifies in writing the division, work group, or task force of that fact:   * a specification that the information is not public information for purposes of state public information law, and is excepted from the public availability requirement of that law; * a requirement for the division or applicable work group or task force to secure the information in the same manner as the private organization secures the information; and * a prohibition against the division or applicable work group or task force further disclosing the information without the consent of the private organization.   C.S.S.B. 36 requires the division or a work group or task force of the division, if the division or applicable work group or task force is required to disclose such sensitive, proprietary, or otherwise confidential information to comply with applicable state or federal law or a court order, to take the following actions to the extent practicable:   * not later than the fifth business day before the date the information is disclosed, notify the private organization that provided the information of the required disclosure; and * disclose the information in the same condition as the division or applicable work group or task force received the information, including providing any labels or other markings that were originally provided with the information.   Definitions  C.S.S.B. 36 defines the following for the purposes of the bill's provisions regarding the establishment and operation of the division:   * "local government" as any municipality, county, special-purpose district or authority, or other political subdivision of the state; and * "state agency" as a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government, including a public institution of higher education.   **Collaboration in Performance of Duties**  C.S.S.B. 36 revises provisions relating to the duties of the Homeland Security Council and the permanent special advisory committees relating to homeland security, which currently are the First Responder Advisory Council and the Private Sector Advisory Council, by requiring those entities to perform their duties in collaboration with the Homeland Security Division of DPS.  **Transfer Provisions**  C.S.S.B. 36 requires DPS to do the following as soon as practicable after the bill's effective date:   * transfer the management and operations of the Border Security Operations Center and the Joint Operations and Intelligence Centers to the Texas Homeland Security Division in DPS; and * enter into a written agreement with any other state agency that, before the bill's effective date, is involved in the management or operations of those centers for the transfer of the management and operations of those centers to the division, including any land, facilities, equipment, and other property involved in the operations of the centers.   The bill requires such a written agreement to specify an effective date for the transfer. Any rules, policies, procedures, decisions, and forms of a transferring agency that relate to the management or operations of a center in effect on the effective date of the transfer remain in effect until changed by DPS.  C.S.S.B. 36 establishes the transfer of the following to DPS on the effective date of the transfer:   * all money, contracts, leases, property, software source code and documentation, records, and obligations of a transferring agency that relate to the management or operations of an applicable center; and * the unexpended and unobligated balance of any money appropriated by the legislature relating to an applicable center.   C.S.S.B. 36 requires a transferring agency to provide DPS with access to any systems, facilities, or information necessary for DPS to accept the management and operations of a center transferred under the bill's provisions. On the effective date of the transfer, all full-time equivalent employee positions at the transferring agency that concern the management or operations of a center being transferred become positions at DPS. The bill requires DPS to post the positions for hiring and, when filling the positions, to give consideration to an applicant who, immediately before the date of the transfer, was an employee at a transferring agency, but DPS expressly is not required to hire such an applicant. |
| **EFFECTIVE DATE**  September 1, 2025. |
| **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**  While C.S.S.B. 36 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.  The substitute includes the following provisions absent from the engrossed relating to information provided to the division or a work group or task force of the division by a private organization that considers the information highly sensitive, proprietary, or otherwise confidential and provides written notification of that fact:   * a specification that the information is not public information for purposes of state public information law, and is excepted from the public availability requirement of that law; * a requirement for the division or applicable work group or task force to secure the information in the same manner as the private organization secures the information; * a prohibition against the division or applicable work group or task force further disclosing the information without the consent of the private organization; and * requirements for the division or the applicable work group or task force in the event that disclosure of the information is required to comply with applicable state or federal law or a court order, specifically with respect to notification of the private organization and the manner of disclosure. |