

## **BILL ANALYSIS**

C.S.H.B. 246  
By: Guillen  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The bill author has informed the committee that landowners and residents near the Texas-Mexico border region face property damage from criminal activities tied to transnational crime, with agricultural landowners in particular suffering financial losses from trespassing, vandalism, and law enforcement responses to border crime. The 88th Legislature, through the landowner compensation program, provided financial assistance to landowners for damage to agricultural land caused by trespassers and law enforcement. However, the bill author has further informed the committee that compensation programs lack the proper breadth to compensate all types of landowners impacted by border crime and that any landowner should not bear the financial burden of damage caused by certain criminal activity beyond their control. C.S.H.B. 246 seeks to address this issue by expanding the program's scope, broadening eligibility, providing more comprehensive coverage for a wider range of damages, establishing standardized documentation procedures, and reinforcing the state's commitment to property rights.

### **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.H.B. 246 amends the Code of Criminal Procedure to rename the landowner compensation program established and administered by the attorney general for the purpose of providing compensation for property damage caused by certain border crime activities as the border crime property damage compensation program. The bill expands the program as follows:

- changes the persons eligible for compensation from landowners who suffer real property damage on agricultural land caused by one of the following to landowners and lessees who suffer damage to agricultural land, including buildings or other improvements, or to livestock, timber, or crops on agricultural land caused by one of the following:
  - a trespasser as a result of an offense involving arson, criminal mischief, or other property damage or destruction that was committed in the course of or in furtherance of a border crime; or
  - a law enforcement response to a trespasser who was engaged in a border crime.

For these purposes, damage caused to agricultural land includes any debris, pollutants, or contaminants left on the land during the applicable incident, and compensation awarded under the program may include an amount necessary to clean up the debris, pollutants, or contaminants to restore the soil to its agricultural use. The bill revises the definition of "border crime" for

purposes of the program by including conduct that constitutes the offense of continuous smuggling of persons and involves transnational criminal activity.

C.S.H.B. 246 requires the attorney general to establish a standardized form and report template to be used by law enforcement agencies for purposes of documenting damage caused by a trespasser in accordance with the existing prohibition against the attorney general awarding compensation under the program for damage caused by a trespasser unless the damage is documented in a written report by a law enforcement agency as having occurred in connection with a border crime. The bill also revises the requirement for the attorney general to establish guidelines related to compensation amounts, provided that the maximum amount awarded per incident causing damage may not exceed \$75,000, by specifying that the maximum amount may not exceed a total of \$75,000 and by providing that any portion of damages attributable to livestock, timber, or crops may not exceed \$10,000. The bill requires a law enforcement agency that makes a written report under these provisions, for purposes of allowing the attorney general to determine whether a person qualifies for an award of compensation under the program and the extent of the damage, to release the report to the attorney general not later than the 14th day after the date the attorney general makes a request to the agency for the report.

C.S.H.B. 246 removes the specification that the program is established and administered from money appropriated for the purpose and specifies instead that the attorney general may use money from the following sources to establish the program:

- money appropriated, credited, or transferred by the legislature for purposes of the program;
- revenue that the legislature by statute dedicates for deposit to the credit of the program; and
- gifts, grants, and donations received by the state for purposes of the program, including grants and reimbursements received from the federal government.

The bill repeals the provision establishing that provisions relating to the program expire on the second anniversary of the date that all money appropriated for the program has been expended.

C.S.H.B. 246 establishes that its provisions relating to the border crime property damage compensation program apply only to compensation for damages incurred in connection with conduct constituting an offense occurring on or after the bill's effective date. Compensation for damages incurred in connection with conduct constituting an offense occurring before the bill's effective date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For these purposes, conduct constituting an offense occurred before the bill's effective date if any element of the offense occurred before that date.

C.S.H.B. 246 amends the Government Code to revise state public information law by doing the following:

- expanding the meaning of "crime victim or claimant" for purposes of provisions relating to the confidentiality of crime victim or claimant information to include a person who has filed an application for compensation under the border crime property damage compensation program;
- replacing the provision making certain information held by the crime victim's compensation division of the attorney general's office confidential with a provision making such information held by the attorney general's office in connection with an application for compensation under the Crime Victims' Compensation Act or the program confidential;
- establishing that, if the crime victim or claimant is awarded compensation under the program as of the date of the award of compensation, the name of the crime victim or claimant and the amount of compensation awarded to that crime victim or claimant are public information and are not excepted from the public availability requirement of state public information law;
- authorizing an employee of a governmental body who has suffered property damage for which the employee is eligible for compensation under the program, regardless of

whether the employee has filed an application for compensation under the program, to elect whether to allow public access to certain information that would identify or tend to identify the employee, including a photograph or other visual representation of the employee; and

- with respect to the requirement that such an election be made in writing on an applicable form, signed by the employee, and filed with the governmental body before the third anniversary of the latest to occur of certain specified dates, includes the date the property damage occurred, as applicable.

C.S.H.B. 246 amends the Insurance Code to prohibit an insurer, in setting rates under statutory provisions governing property and casualty insurance, from considering whether a claim has been made by or on behalf of a policyholder in relation to an event documented by a written report by a law enforcement agency, using the standardized form and report template established by the bill, relating to property damage occurring in connection with a border crime. These provisions apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2026. A policy delivered, issued for delivery, or renewed before January 1, 2026, is governed by the law as it existed immediately before the bill's effective date, and that law is continued in effect for that purpose.

C.S.H.B. 246 repeals Article 56C.007, Code of Criminal Procedure.

### **EFFECTIVE DATE**

September 1, 2025.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 246 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While the introduced and the substitute both make changes to the border crime property damage compensation program, the versions differ in the following ways:

- the introduced did the following, which the substitute does not do:
  - with respect to the change under the bill's provisions regarding eligibility for compensation under the program, included damage to game on agricultural land as damage for which a landowner or lessee is eligible for compensation under the bill's provisions; and
  - additionally extended eligibility for compensation under the program to persons residing in the border region who suffer real or personal property damage caused by an applicable trespasser or law enforcement response;
- the substitute does the following, which the introduced did not do:
  - clarifies the purpose of the standardized form and report template used by law enforcement agencies that is used for the purpose of documenting damage caused by a trespasser and that is required before an award of compensation for such damage may be made by specifying that such compensable damage for that purpose is damage caused by a trespasser in the course of or in furtherance of a border crime;
  - revises the requirement for the attorney general to establish guidelines related to compensation amounts, provided that the maximum amount awarded per incident causing damage may not exceed \$75,000, by specifying that the maximum amount may not exceed a total of \$75,000 and by providing that any portion of damages attributable to livestock, timber, or crops may not exceed \$10,000;
  - with respect to the authorization for compensation awarded under the program to include an amount necessary to restore the soil to its agricultural use, limits that

- amount to the amount necessary to clean up the debris, pollutants, or contaminants; and
  - requires a law enforcement agency that makes a written report under these provisions, for purposes of allowing the attorney general to determine whether a person qualifies for an award of compensation under the program and the extent of the damage, to release the report to the attorney general not later than the 14th day after the date the attorney general makes a request to the agency for the report; and
- whereas the introduced included provisions providing for the bill's general applicability with respect to compensation for damages incurred in connection with conduct constituting an offense occurring on or after and before the bill's effective date, the substitute makes those provisions applicable specifically to the bill's provisions relating to the program.

The substitute omits the provisions in the introduced that did the following:

- defined "border region" for purposes of the program by reference as the portion of the state that is located in a county that:
  - is adjacent to an international border;
  - is adjacent to a county that is adjacent to an international border; or
  - is served by a prosecuting attorney whose jurisdiction includes a county satisfying either of those criteria;
- dedicated to the program the proceeds from sales of forfeited property seized in connection with the offense of smuggling of persons or the offense of continuous smuggling of persons in a contraband forfeiture hearing in which judgment is rendered in the state's favor by doing the following:
  - requiring the balance of the proceeds from the sale of such property, after all the required distributions and deductions are made, to be transferred to the credit of an account in the general revenue fund to be administered by the comptroller of public accounts; and
  - authorizing that balance to be appropriated only to the attorney general for the purpose of administering the program;
- authorized the attorney general to use such proceeds to establish the program; and
- accordingly eliminated the requirement in current law for amounts credited to the special fund of an applicable law enforcement agency or the office of the state's attorney from a forfeiture of contraband authorized with respect to either of those offenses to be used to provide direct victim services or to cover the costs of a contract with a local nonprofit organization to provide direct services to crime victims.

The substitute includes provisions absent from the introduced revising state public information law that do the following:

- expand the meaning of "crime victim or claimant" for certain purposes to include a person who has filed an application for compensation under the border crime property damage compensation program;
- replace the provision making certain information held by the crime victim's compensation division of the attorney general's office confidential with a provision making such information held by the attorney general's office in connection with an application for compensation under the Crime Victims' Compensation Act or the program confidential;
- establish that the name of an applicable crime victim or claimant and the amount of compensation awarded to that crime victim or claimant are public information and are not excepted from the public availability requirement of state public information law;
- authorize an employee of a governmental body who has suffered property damage for which the employee is eligible for compensation under the program to elect whether to allow public access to certain information that would identify or tend to identify the employee, including a photograph or other visual representation of the employee; and

- with respect to the requirement that such an election be made in writing on an applicable form, signed by the employee, and filed with the governmental body before the third anniversary of the latest to occur of certain specified dates, include the date the property damage occurred, as applicable.

Whereas the introduced prohibited an insurer from increasing a rate under statutory provisions governing the protection of consumer interests charged to an insured based solely on whether a claim has been made by or on behalf of the applicant or insured in relation to an event documented by a written report by a law enforcement agency relating to property damage occurring in connection with a border crime, the substitute prohibits an insurer, in setting rates under statutory provisions governing property and casualty insurance, from considering whether a claim has been made by or on behalf of a policyholder in relation to such an event. Additionally, the substitute includes a provision absent from the introduced establishing that the substitute's provisions relating to that prohibition apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2026, and providing for the governance of a policy delivered, issued for delivery, or renewed before that date.