

BILL ANALYSIS

C.S.H.B. 1554
By: Lozano
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that conduct currently punishable as a smuggling of persons offense and the penalties prescribed for such an offense are inadequate. C.S.H.B. 1554 seeks to revise the conduct constituting a smuggling of persons offense and provides for an enhancement of the penalty for such an offense under certain circumstances.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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. 1554 amends the Penal Code to include an agent of the U.S. Department of Homeland Security as a special investigator for purposes of offenses involving kidnapping, unlawful restraint, or smuggling of persons. The bill removes from the conduct constituting the offense of smuggling of persons encouraging or inducing a person to enter or remain in the United States in violation of federal law by concealing, harboring, or shielding that person from detection and includes among the conduct constituting such an offense assisting, guiding, or directing three or more individuals to enter or remain on agricultural land without the effective consent of the owner. The bill removes the condition that an actor have the intent to obtain a pecuniary benefit in committing the offense and instead enhances the penalty for the offense from a third degree felony to a second degree felony if the offense was committed with such intent; if during the commission of the offense the actor, another party to the offense, or an individual assisted, guided, or directed by the actor knowingly possessed a firearm; or if the actor knowingly uses a motor vehicle, aircraft, watercraft, or other means of conveyance to transport an individual with the intent to flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1554 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 20.01, Penal Code, is amended.

SECTION 2. Sections 20.05(a) and (b), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person [~~with the intent to obtain a pecuniary benefit,~~] knowingly:

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

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

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

(2) assists, guides, or directs three or more individuals to enter or remain on agricultural land without the effective consent of the owner [~~encourages or induces a person to enter or remain in this country in violation of federal law by concealing, harboring, or shielding that person from detection~~].

(b) An offense under this section is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if:

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

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

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

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

(2) a felony of the first degree if:

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

(B) the smuggled individual suffered

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Sections 20.05(a) and (b), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person [~~with the intent to obtain a pecuniary benefit,~~] knowingly:

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

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

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

(2) assists, guides, or directs three or more individuals to enter or remain on agricultural land without the effective consent of the owner [~~encourages or induces a person to enter or remain in this country in violation of federal law by concealing, harboring, or shielding that person from detection~~].

(b) An offense under this section is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if:

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

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

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

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

(E) the actor commits the offense under Subsection (a)(1)(B); or

(2) a felony of the first degree if:

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

(B) the smuggled individual suffered

serious bodily injury or death.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2017.

serious bodily injury or death.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.