

- SUBJECT:** Creating an offense for the unlawful transport of an illegal alien
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 8 ayes — Cook, Frullo, Gallego, Geren, Harless, Hilderbran, Huberty, Solomons
- 0 nays
- 5 absent — Menendez, Craddick, Oliveira, Smithee, Turner
- WITNESSES:** For — Maria Martinez, Immigration Reform Coalition of Texas; (*Registered, but did not testify:* David Carter; Julie Drenner; Anne Newman, Trinity Legal Center; Linda Schlueter)
- Against — Rebecca Bernhardt, Texas Criminal Justice Coalition; B.J. Lee; (*Registered, but did not testify:* Antolin Aguirre; Stefanie Collins, ACLU of Texas; Luis Figueroa, Mexican American Legal Defense and Educational Fund; Adrian Reyna, Texas DREAM Alliance; Andrew Rivas, Texas Catholic Conference; Emily Shelton, Texas Impact; Dianna Tavera Reform Immigration for Texas Alliance; Walter Trejo; Jesus Mares; Maria Medina; Karla Resendiz; Esther Reyes)
- BACKGROUND:** Under Penal Code, sec. 20.05, it is an offense to transport an individual for financial gain in a way that is designed to conceal the person from law enforcement authorities and that creates a substantial likelihood that the person will suffer serious bodily injury or death. The offense is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).
- DIGEST:** CSHB 892 would add Penal Code, sec. 20.06 to establish the offense of unlawful transport of an illegal alien. A person would commit an offense if the individual knowingly transported an illegal alien in a manner that was designed to conceal the unauthorized immigrant from local, state, or federal law enforcement. The offense would be a state jail felony. It would be punishable as a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the unlawful transport was committed for financial gain or in a way that would likely cause bodily harm to the

person being transported. It would be an affirmative defense if the individual was transporting a close relative.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 892 would penalize human traffickers who transport or conceal an illegal alien. Human trafficking is a serious and growing problem in Texas, with as many as 20 percent of all victims passing through the state. Women and children make up the overwhelming majority of human trafficking victims, and most get forced into prostitution or placed in other dangerous situations. The bill would help tackle this problem by imposing tougher penalties on those who sought to harm these vulnerable people.

**OPPONENTS
SAY:**

CSHB 892 would put good Samaritans at risk of violating the law. While the intent of the bill is to help prevent the terrible crime of human trafficking, there would be no exemption for individuals who felt obliged to help unauthorized immigrants on the path to citizenship. Under the bill, a person could face prosecution for taking a neighbor to the store, as could clergy, nuns, or others who help undocumented immigrants.

The bill also would be redundant because the unlawful transport of an individual for financial gain already is an offense under Penal Code, sec. 20.05 and under federal law. This bill would require local peace officers to enforce federal law and could clutter up Texas prisons, which also are facing budget cuts.