

**SUBJECT:** Creating the criminal offense of unauthorized entry from Mexico

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 8 ayes — Hunter, Dean, Geren, Guillen, Metcalf, Slawson, Smithee, Spiller

2 nays — S. Thompson, Turner

3 absent — Hernandez, Anchía, Raymond

**SENATE VOTE:** On final passage (April 13) — 18 - 12

**WITNESSES:** None (*Considered in a formal meeting May 19*)

**BACKGROUND:** Some have suggested that creating state-level offenses for illegal border crossing could help enhance border security in response to record numbers of migrant encounters at the Texas-Mexico border.

**DIGEST:** CSSB 2424 would establish that a person who was not a citizen or legal permanent resident of the United States would commit a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the person entered or attempted to enter the state by crossing its border with Mexico at any place other than a port of entry. If it was shown at trial that the person had previously been convicted of the offense, the offense would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

The bill would authorize a peace officer, in lieu of arrest, to remove a person detained for the offense by collecting any identifying information the person had, transporting the person to a port of entry, and ordering the person to return to Mexico. An officer who arrested a person for the offense would be required to detain the person in a facility established under Operation Lone Star or a similar state border security operation, if feasible.

The bill would prohibit a court from abating the prosecution of the offense on the basis that a federal determination regarding the immigration status of the actor was pending.

CSSB 2424 would establish that a person would commit a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if, after committing the offense of crossing the border illegally as specified by the bill, the person refused to comply with a peace officer's order to return to Mexico.

A local government would be required to pay actual damages, court costs, and attorney's fees awarded against a local government employee if the damages arose from a cause of action resulting from actions taken by the person to enforce the bill in the course and scope of the person's employment for the local government.

CSSB 2424 would provide for the indemnification of the state and of county officers for damages resulting from actions taken to enforce the bill. The bill would also establish the severability of its provisions and components.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

**NOTES:**

According to the Legislative Budget Board, creating a new criminal offense could result in additional demands on state correctional resources. The fiscal implications of CSSB 2424 cannot be determined due to a lack of data to estimate the prevalence of conduct subject to criminal penalties under the bill.