

BILL ANALYSIS

Senate Research Center

S.B. 576
By: Hinojosa
Criminal Justice
6/1/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised among local authorities, law enforcement agencies, and landowners that conduct currently punishable as a smuggling offense and the penalties prescribed for such an offense are inadequate. Migrants and local communities alike are put in harm's way as smugglers brazenly continue their efforts.

S.B. 576 seeks to strengthen smuggling law by revising the conduct constituting a smuggling of persons offense and enhancing the penalty for such an offense under certain circumstances.

- Amends the Penal Code to include an agent of the United States Department of Homeland Security as a special investigator.
- Removes the condition of 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.
- Provides penalty for assisting, guiding, or directing two or more individuals onto agricultural land without consent.

S.B. 576 amends current law relating to the prosecution and punishment of the offense of smuggling of persons.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 20.01, Penal Code, by adding Subdivisions (6), (7), and (8) to define "agricultural land," "firearm," and "special investigator" for the purposes of Chapter 20 (Kidnapping, Unlawful Restraint, and Smuggling of Persons).

SECTION 2. Amends Sections 20.05(a) and (b), Penal Code, as follows:

- (a) Provides that a person commits the offense of smuggling of persons if the person knowingly takes certain actions, including assisting, guiding, or directing two or more individuals to enter or remain on agricultural land without the effective consent of the owner. Deletes existing text requiring a person to act with the intent to obtain a pecuniary benefit in order to commit the offense of smuggling of persons. Makes nonsubstantive changes.
- (b) Provides that an offense under Section 20.05 (Smuggling of Persons) is a felony of the third degree, except that the offense is a felony of the second degree under certain circumstances, including if the offense was committed with the intent to obtain a pecuniary benefit; 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 commits the offense under Subsection (a)(1)(B) (relating to the

offense of using certain 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). Makes a nonsubstantive change.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.