

BILL ANALYSIS

Senate Research Center
82R528 GCB-D

S.B. 146
By: Hinojosa
Criminal Justice
3/28/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In South Texas, along with a growing portion of the rest of the state, "coyotes" frequently traffic both illegal and legal residents in Texas in an unsafe manner for pecuniary benefit.

It is difficult for prosecutors to convict people under Chapter 20A (Trafficking of Persons), Penal Code, because they have to prove under Section 20A.02(a) that the person knowingly traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services, or benefits from participating in a venture that involves an activity described in Subdivision (1), including by receiving labor or services that person knows are forced labor or services.

Fewer than 50 of the roughly 160,000 inmates in the Texas Department of Criminal Justice System have been convicted of an offense, as either a primary or secondary charge, under Chapter 20A, Penal Code. Out of this subgroup of roughly 50, only four persons have been convicted of trafficking.

S.B. 146 creates an offense of unlawful transport of an undocumented person as part of Section 20A.03, Penal Code. S.B. 146 supplies prosecutors with an additional tool with which to charge traffickers to address the issue of trafficking of undocumented persons in this state.

As proposed, S.B. 146 amends current law relating to the creation of the offense of unlawful transport of an undocumented person.

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 Chapter 20A, Penal Code, by adding Section 20A.03, as follows:

Sec. 20A.03. UNLAWFUL TRANSPORT OF UNDOCUMENTED PERSON. (a)
Defines "undocumented person" in this section.

(b) Provides that a person commits an offense if the person transports an undocumented person in a manner that is designed to conceal the undocumented person from local, state, or federal law enforcement authorities.

(c) Provides that, except as otherwise provided by Subsection (d), an offense under this section is a state jail felony.

(d) Provides that an offense under this section is a felony of the third degree if the offense is committed for pecuniary benefit or in a manner that creates a substantial likelihood that the undocumented person will suffer bodily injury.

(e) Provides that it is an affirmative defense to prosecution under this section that the actor is related to the undocumented person within the third degree of consanguinity or at the time of the offense within the third degree of affinity.

(f) Authorizes the actor to be prosecuted under either section if conduct constituting an offense under this section also constitutes an offense under another section of this code.

SECTION 2. Effective date: September 1, 2011.