

BILL ANALYSIS

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S.B. 947
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there are a number of different types of federal agents, officers, and investigators who perform federal law enforcement duties in Texas. These officers have limited arrest authority for violations of Texas law under Article 2.122 (Special Investigators), Code of Criminal Procedure. Many federal officers work hand-in-hand with local law enforcement. While performing their duties, federal officers also witness violations of state law. These officers are, in many cases, in uniform and armed and the public expects them to take action if a crime is committed or a disturbance breaks out in their presence.

Even private citizens may arrest for felonies or breaches of the peace, but such citizens do not have the immunities or protections that law enforcement officers have when acting under the color of their office. Current statute limits the arrest authority of some federal officers for felony offenses that occur in their presence. Also, because of changes made on the federal level with regard to departments and titles, some of the references in the current statute are obsolete.

S.B. 947 seeks to clarify that all federal law enforcement agents, officers, or investigators who are performing duties in this state have arrest and investigative authority for state felony offenses. The bill also changes the references in Article 2.122, Code of Criminal Procedure, for specific federal law enforcement agencies and officers to conform to the current names and titles used by the federal government.

As proposed, S.B. 947 amends current law relating to granting limited state law enforcement authority to certain criminal investigators of the United States and to other federal law enforcement personnel.

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 Article 2.122, Code of Criminal Procedure, by amending Subsections (a), (b), (c), (d), and (e) and adding Subsections (d-1) and (e-1), as follows:

(a) Requires that the following named criminal investigators of the United States not be deemed peace officers, but provides that they shall have the powers of arrest, search, and seizure under the laws of this state as to felony offenses only:

- (1) Special Agents of the Federal Bureau of Investigation;
- (2) except as provided by Subsection (g), Special Agents and Law Enforcement Officers of the United States Secret Service;
- (3) Special Agents of United States Immigration and Customs Enforcement;
- (4) Special Agents of the Bureau of Alcohol, Tobacco, Firearms and Explosives, rather than Special Agents of Alcohol, Tobacco, and Firearms;

(5) Special Agents of the United States Drug Enforcement Administration, rather than Special Agents of Federal Drug Enforcement Agency;

(6) Inspectors of the United States Postal Inspection Service, rather than Inspectors of the United States Postal Service;

(7) Special Agents of the Criminal Investigation Division of the Internal Revenue Service;

(8) Civilian Special Agents of the United States Naval Criminal Investigative Service, rather than Civilian Special Agents of the United States Naval Investigative Service;

(9) Marshals and Deputy Marshals of the United States Marshals Service;

(10) Special Agents of the United States Department of State, Bureau of Diplomatic Security; and

(11) Special Agents of the Treasury Inspector General for Tax Administration.

Deletes existing text naming Inspectors of the Internal Security Division of the Internal Revenue Service and Special Agents of the United States Citizenship and Immigration Services. Makes nonsubstantive changes.

(b) Provides that an officer or agent designated by the Secretary of Homeland Security under 40 U.S.C. Section 1315 for duty in connection with the protection of property owned or occupied by the federal government and persons on the property, rather than a person designated as a special policeman by the Federal Protective Services division of the General Services Administration under 40 U.S.C. Section 318 or 318d, is not a peace officer but has the powers of arrest and search and seizure as to any offense under the laws of this state.

(c) Provides that a Customs and Border Protection Officer or Border Patrol Agent of the United States Customs and Border Protection or an immigration enforcement agent or deportation officer of the Department of Homeland Security is not a peace officer under the laws of this state but:

(1) has the powers of arrest, search, and seizure under the laws of this state as to felony offenses; and

(2) on the premises of a port facility designated by the commissioner of the United States Customs and Border Protection as a port of entry for arrival in the United States by land transportation from the United Mexican States into the State of Texas or at a permanent established border patrol traffic check point, has the authority to detain a person pending transfer without unnecessary delay to a peace officer if the agent or officer has probable cause to believe that the person has engaged in conduct that is a violation of Section 49.02 (Public Intoxication) or 49.04 (Driving While Intoxicated), Penal Code, rather than Section 49.02, 49.04, 49.07 (Intoxication Assault), or 49.08 (Intoxication Manslaughter), Penal Code, regardless of whether the violation may be disposed of in a criminal proceeding or a juvenile justice proceeding.

Makes nonsubstantive changes.

(d) Provides that a commissioned law enforcement officer of the National Park Service is not a peace officer under the laws of this state, except that the officer:

(1) has the powers of arrest, search, and seizure under the laws of this state as to felony offenses committed in this state; and

(2) has the powers of arrest, search, and seizure as to any offense under the laws of this state committed in, rather than within, the boundaries of a national park or national recreation area.

(d-1) Provides that, for purposes of Subsection (d), rather than in this subsection, "national park or national recreation area" means a national park or national recreation area included in the National Park System as defined by 16 U.S.C. Section 1c(a).

(e) Provides that a Special Agent or Law Enforcement Officer of the United States Forest Service is not a peace officer under the laws of this state, except that the agent or officer:

(1) has the powers of arrest, search, and seizure under the laws of this state as to felony offenses committed in this state; and

(2) has the powers of arrest, search, and seizure as to any offense under the laws of this state committed in, rather than within, the National Forest System.

(e-1) Provides that, for purposes of Subsection (e), rather than in this subsection, "National Forest System" has the meaning assigned by 16 U.S.C. Section 1609.

SECTION 2. Effective date: upon passage or September 1, 2011.