

SUBJECT: Prosecution and punishment of smuggling of persons

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Cook, Giddings, Craddick, Farrar, Frullo, Geren, Hilderbran, Huberty, Oliveira, Smithee, Sylvester Turner

0 nays

2 absent — Harless, Menéndez

WITNESSES: For — John Hubert, Kleberg & Kenedy Counties District Attorney's Office; (*Registered, but did not testify*: Marida Favia del Core Borromeo, Exotic Wildlife Association; Carlos Omar Garcia, District Attorney's Office for Brooks and Jim Wells Counties; Norman Garza, Texas Farm Bureau; Robert Howard, South Texas Property Rights Association)

Against — None

On — David Carter; Krystal Gomez, ACLU of Texas

BACKGROUND: Penal Code, sec. 20.05 makes it a crime to intentionally use a vehicle to transport an individual in order to avoid the detection of law enforcement. This crime of human smuggling is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000). If this offense is done for either financial gain or in a manner likely to result in bodily injury, the penalty is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

DIGEST: The bill would amend Penal Code, sec. 20.05 so that guiding three or more individuals to enter another person's agricultural land would also be considered human smuggling. If the actor, another party, or anyone guided by the actor knowingly possessed a firearm while committing this offense, the third-degree penalty would apply. Otherwise, the penalty would be a state jail felony. A definition for agricultural land would be provided.

SUPPORTERS SAY: Human smuggling results in the damage of property and a number of deaths. Human smugglers, referred to as coyotes, frequently mistreat, abandon, and leave for dead undocumented persons. Counties in South

Texas, which already have limited resources, must deal with the aftermath of these crimes. The bill would expand the statute dealing with human smuggling to grant law enforcement the flexibility to address this crime.

District attorneys should have the tools they need to go after human smugglers. Currently, if five human smugglers with guns walk across another's property, the human smuggling statute would not apply. As such, the most these human smugglers could be charged with under state law is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). This specific type of human smuggling should be a state jail felony, and if immigrants were put at risk by a gun being involved, the crime should be a third-degree felony.

**OPPONENTS
SAY:**

The bill is unnecessary because current law properly punishes armed human smugglers walking on another's land with a deadly weapon with a class A misdemeanor, which can result in up to a year in jail. Enhancing this offense, especially from a misdemeanor to a felony, would be an unnecessary leap in a punishment that is sufficient under current law. If a smuggled person were actually injured, other state laws would adequately punish the human smugglers.