

BILL ANALYSIS

Senate Research Center
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H.B. 2613
By: Frullo et al. (Huffman)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been noted that criminal organizations use stash houses to commit and facilitate illegal activities, such as human trafficking and smuggling, and that it would be much easier for law enforcement to effectively prosecute this criminal activity if there was an offense for such conduct. H.B. 2613 creates the criminal offense of operation of a stash house and provides for the use of contraband seized in relation to that offense.

H.B. 2613 amends current law relating to the offense of operation of a stash house and to funding certain crime victim services through the use of money derived from a civil asset forfeiture of contraband related to that offense, human smuggling and trafficking offenses, and certain prostitution offenses, and creates a criminal offense.

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 20, Penal Code, by adding Section 20.07, as follows:

Sec. 20.07. OPERATION OF STASH HOUSE. (a) Provides that a person commits an offense if the person knowingly:

(1) uses or permits another to use any real estate, building, room, tent, vehicle, boat, or other property owned by the person or under the person's control to commit an offense or to facilitate the commission of an offense under Section 20.05 (Smuggling of Persons), 20.06 (Continuous Smuggling of Persons), 20A.02 (Trafficking of Persons), 20A.03 (Continuous Trafficking of Persons), 43.04 (Aggravated Promotion of Prostitution), or 43.05 (Compelling Prostitution); or

(2) rents or leases any property to another, intending that the property be used as described by Subdivision (1).

(b) Provides that an offense under this section is a Class A misdemeanor.

(c) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under another law, to be prosecuted under this section, the other law, or both.

SECTION 2. Amends Article 59.01(2), Code of Criminal Procedure, as follows:

(2) Redefines "contraband" to mean property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) makes no changes to this subparagraph;

(ii) any felony under Section 15.031(b) (relating to certain actions constituting criminal solicitation of a minor), 21.11 (Indecency With a Child), or 38.04 (Evading Arrest or Detention) or Chapter 29 (Robbery), 30 (Burglary and Criminal Trespass), 31 (Theft), 32 (Fraud), 33 (Computer Crimes), 33A (Telecommunications Crimes), or 35 (Insurance Fraud), Penal Code, rather than any felony under Section 15.031(b), 20.05, 20.06, 21.11, 38.04, or Chapter 43 (Public Indecency), 20A (Trafficking of Persons), 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under Chapter 43, Penal Code, except as provided by Paragraph (B);

(iv)-(v) redesignates existing Subparagraphs (iii)-(iv) as these subparagraphs and makes no further changes;

(B) used or intended to be used in the commission of:

(i)-(iii) makes no changes to these subparagraphs;

(iv) any felony under Chapter 20A or 39, rather than Chapter 34, Penal Code;

(v)-(xi) makes no changes to these subparagraphs;

(xii) any offense under Section 20.05, 20.06, 20.07, 43.04, or 43.05, rather than Section 20.05 or 20.096, Penal Code; or

(xiii) makes no changes to these subparagraphs;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), or (xii) of this subdivision, or a crime of violence, rather than the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), or (xii) of this subdivision, or a crime of violence, rather than acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), or (xi), of this subdivision, or a crime of violence;

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 (Criminal Solicitation of a Minor) or Chapter 43, Penal Code, rather than used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25 (Sexual Performance By a Child), Penal Code; or

(F) used to facilitate or intended to be used to facilitate the commission of an offense under Section 20.05, 20.06, or 20.07 or Chapter 20A, Penal Code, rather than used to facilitate or intended to be used to facilitate the commission of a felony under Section 20A.02 or Chapter 43, Penal Code.

SECTION 3. Amends Article 59.06, Code of Criminal Procedure, by adding Subsection (t), as follows:

(1) Provides that this subsection applies only to contraband for which forfeiture is authorized with respect to an offense under Section 20.05, 20.06, 20.07, 43.04, or 43.05 or Chapter 20A, Penal Code.

(2) Requires the gross amount credited to the special fund of the office of the attorney representing the state or of a law enforcement agency under Subsection (c) (relating to requiring all money, securities, negotiable instruments, stocks or bonds, or things of value, or proceeds from the sale of those items, if a local agreement exists between the attorney representing the state and law enforcement agencies, be deposited, after the deduction of court costs to which a district court clerk is entitled according to the terms of the agreement into a certain fund) from the forfeiture of contraband described by Subdivision (1), notwithstanding any other provision of this article, to be:

(A) used to provide direct victim services by the victim services division or other similar division of the office of the attorney representing the state or of a law enforcement agency, as applicable; or

(B) used by the office of the attorney representing the state or of the law enforcement agency to cover the costs of a contract with a local nonprofit organization to provide direct services to crime victims.

(3) Provides that an expenditure of money in the manner required by this subsection is considered to be for an official purpose of the office of the attorney representing the state or for a law enforcement purpose, as applicable.

SECTION 4. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. Effective date: September 1, 2019.