

Border Prosecution Unit

The Act amends the Government Code to codify the structure and duties of the currently existing Texas border prosecution unit and update policies and procedures relating to the unit. The Act requires the governor to establish the border prosecution unit within the criminal justice division of the governor's office to provide the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature with information regarding border crime.

The Act requires the unit to advise the criminal justice division, serve as a clearinghouse for information related to border crime, and assist in developing training for law enforcement regarding border crime issues, including the investigation and prosecution of border crime. An attorney employed by a border prosecuting attorney as regional counsel is required, among other duties, to assist the border prosecuting attorneys and other regional counsel as needed in prosecuting border crime cases and to serve as a liaison between the unit and other criminal justice entities, including the Department of Public Safety and federal, state, and local prosecutors and law enforcement agencies located in the border region.

Submitted as:

Texas

[HB 12](#)

Status: Signed into law on June 9, 2015.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Definitions.*]
- 2 (1) "Border crime" means any crime involving transnational criminal activity that undermines
- 3 public safety or security, including an offense:
- 4 (A) during the prosecution of which an affirmative finding may be requested under [Insert
- 5 citation – deadly weapon used or exhibited during the commission of a felony offense or
- 6 during immediate flight therefrom];
- 7 (B) under [Insert citations – criminal homicide; kidnapping, unlawful restraint, and
- 8 smuggling of persons; trafficking of persons; sexual offenses; assaultive offenses;
- 9 weapons; gambling; organized crime.];
- 10 (C) under [Insert citations – offenses against property; offenses against public
- 11 administration.];
- 12 (D) under [Insert citation – Controlled Substances Act];
- 13 (E) committed by a person who is not a citizen or national of the United States and is not
- 14 lawfully present in the United States; or
- 15 (F) that is coordinated with or related to activities or crimes that occur or are committed in
- 16 the United Mexican States

- 1 (2) "Border region" means the portion of this state is located in a county that:
2 (A) is adjacent to an international border;
3 (B) is adjacent to a county described by paragraph (A);
4 (C) is served by a prosecuting attorney whose jurisdiction includes a county described by
5 paragraph (A) or (B).
6 (3) "Eligible prosecuting attorney" means an attorney who represents the state in the prosecution
7 of felonies and who:
8 (A) serves a county located in the border region;
9 (B) serves a county or counties that the criminal justice division determines to be
10 significantly affected by border crime.
11 (4) "Border prosecuting attorney" means a prosecuting attorney in a border region who
12 represents the state in the prosecution of felony border crimes.
13 (5) "Criminal justice division" means the criminal justice division established under [Insert
14 citation.]
15 (6) "Prosecuting attorney" means a district attorney, criminal district attorney, or county
16 attorney with felony criminal jurisdiction.
17 (7) "Unit" means the border prosecution unit.

18
19 Section 2. [*General function of border prosecution unit.*]

20 The governor shall establish the border prosecution unit within the criminal justice division to
21 cooperate with and support members of the unit in prosecuting border crime.
22

23 Section 3. [*Membership.*]

- 24 (a) The unit is composed of the following prosecuting attorneys: [*Insert membership.*]
25 (b) A prosecuting attorney described by subsection (a) shall serve on the unit in addition to the
26 (c) Each member of the unit shall enter into a memorandum of understanding with the criminal
27 justice division to collaborate and cooperate in the prosecution of border crime.
28

29 Section 4. [*Officers.*]

- 30 (a) The unit, on a majority vote, shall elect from among its membership a presiding officer and
31 an assistant presiding officer.
32 (b) The presiding officer and the assistant presiding officer serve terms of one year.
33 (c) The assistant presiding officer serves as presiding officer in the presiding officer's absence or
34 if a vacancy occurs in that office until a new presiding officer is elected as provided by
35 subsection (d).
36 (d) If a vacancy occurs in the office of presiding officer or assistant presiding officer before the
37 end of the vacating officer's term, the unit shall elect a person to serve the remainder of the
38 term.
39

40 Section 5. [*Reimbursement for expenses.*]

41 A member of the unit is not entitled to compensation for service on the unit but is entitled to be
42 reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a
43 member of the unit as provided by the [General Appropriations Act].

1 Section 6. [*Duties of unit.*]

- 2 (a) The unit shall meet at least once annually to provide the governor, the lieutenant governor,
3 the speaker of the house of representatives, and the members of the legislature with
4 information regarding:
5 (1) the status of border crime and its effect on prosecutorial resources;
6 (2) the border crimes prosecuted by members of the unit; and
7 (3) the number of border crimes that are committed by a person who is not lawfully present
8 in the United States.
- 9 (b) The unit shall advise the criminal justice division on:
10 (1) the allocation of grants under the prosecution of border crime grant program established
11 under [Insert citation.];
12 (2) the division of the border region into two or more subregions for training purposes; and
13 (3) any additional prosecutorial needs of the border prosecuting attorneys, including a need
14 for the employment of regional counsel described by section 7 to assist with the
15 prosecution of border crimes.
- 16 (c) The unit shall facilitate the coordination and collaboration of the border prosecuting attorneys
17 with any regional counsel described by section 7 and with other law enforcement agencies,
18 including the Department of Public Safety, in the investigation and prosecution of border
19 crime.
- 20 (d) The unit shall develop a nonexclusive list of offenses not otherwise described under the
21 definition of “border crime” in section 1 that constitute border crime to provide guidance and
22 enhance uniformity in the investigation and prosecution of border crime.
- 23 (e) The unit shall serve as a clearinghouse for information related to the investigation and
24 prosecution of border crime and shall develop best practices and guidelines, including best
25 practices for the collection and protection of confidential law enforcement information.
- 26 (f) The unit shall assist in developing a training program and providing training to members of
27 the unit and law enforcement agencies in the border region on specific issues and techniques
28 relating to the investigation and prosecution of border crime.
- 29 (g) The unit shall develop accountability and performance measures for members of the unit who
30 receive a grant under the prosecution of border crime grant program established under [Insert
31 citation.]

32
33 Section 7. [*Duties of regional counsel.*]

- 34 (a) An attorney employed by a border prosecuting attorney as regional counsel shall assist the
35 border prosecuting attorneys and other regional counsel, as needed, in:
36 (1) the prosecution of border crime;
37 (2) the screening of cases involving border crime;
38 (3) the presenting of cases involving border crime to a grand jury; and
39 (4) the preparation and trial of cases involving border crime.
- 40 (b) The regional counsel shall serve as a liaison between the unit and other criminal justice
41 entities, including the Department of Public Safety and federal, state, and local prosecutors
42 and law enforcement agencies located in the border region, by:
43 (1) working closely with those entities, as needed, to coordinate and assist in the
44 investigation and prosecution of border crime; and

- 1 (2) attending multiagency task force hearings and meetings held by federal, state, and local
2 prosecutors and law enforcement agencies on the investigation and prosecution of border
3 crime.
- 4 (c) The regional counsel shall provide legal and technical assistance to law enforcement agencies
5 investigating border crime, including by:
- 6 (1) providing legal advice and recommendations regarding Fourth Amendment search and
7 seizure issues, relevant statutes, and case law;
- 8 (2) drafting and reviewing affidavits requesting the issuance of search warrants, wiretap
9 orders, pen register and trap and trace orders, mobile tracking device orders, and similar
10 court orders; and drafting requests for court orders authorizing:
- 11 (A) the interception of oral, wire, and electronic communications;
- 12 (B) the installation and use of a pen register or trap and trace device;
- 13 (C) the disclosure of subscriber or customer records and information; and
- 14 (D) other similar court orders that are required to be filed by a prosecutor.
- 15 (d) The regional counsel shall coordinate training with the unit for border prosecuting attorneys
16 and law enforcement agencies, including by:
- 17 (1) assisting in identifying training needs in the county or subregion, if any is created, in
18 which the border prosecuting attorney's office or the agency is located;
- 19 (2) assisting in the development of training curricula and guidelines for the investigation and
20 prosecution of border crime; and
- 21 (3) participating in and hosting training presentations and sessions in each subregion, if any
22 is created.
- 23 (e) The regional counsel shall provide legal and technical assistance to border prosecuting
24 attorneys, including by:
- 25 (1) performing legal research relating to investigating and prosecuting border crime, if
26 requested; and
- 27 (2) coordinating with border prosecuting attorneys and law enforcement agencies to identify
28 experts in the investigation and prosecution of complex, long-term cases against
29 organized criminal enterprises.

30
31 Section 8. [*Gifts and grants.*]

32 The criminal justice division may apply for and accept gifts, grants, and donations from any
33 organization described in Section 501(c)(3) or (4) of the Internal Revenue Code of 1986 for the
34 purposes of funding any activity of the unit under this subchapter. The criminal justice division
35 may apply for and accept grants under federal and state programs.