

SENATE BILL 4 88(3)

88 (3) Senate Bill 4: “Family ‘smuggler’ Bill”

SB 4 from the third special session, 88(3), was signed into law by Governor Abbott, and will become effective **February 6, 2024**.

- SB 4 increases mandatory minimum sentences and penalties for “smuggling” immigrants or “operating a stash house.”

Key Points:

- 1 SB 4 imposes a 10-year mandatory minimum sentence for the crimes of “smuggling” and “continuous smuggling,” and enhances these offenses to a third-degree felony if committed while operating a “stash house.”
- 2 The minimum sentence can be lowered to a 5-year, third-degree felony if the person committing the offense is related to the “smuggled” individual within the third degree of affinity or consanguinity; or, if the actor provides “significant cooperation to the state or law enforcement.”
- 3 Currently, the operation of a “stash house” can carry a one-year misdemeanor sentence. SB 4 increases this to a 5-year, third-degree felony if, while operating a stash house, the property is used for smuggling, trafficking, compelling prostitution, or if an individual on the property became a victim of sexual assault, serious bodily injury, or death.

Implications

- 1 Texas’ laws on ‘smuggling’ are broad and could affect innocent Texans. Individual police officers have a lot of leeway in how they interpret and enforce these laws.
- 2 The broad definition of ‘smuggling’ could target innocent individuals driving undocumented family members to church, or giving undocumented friends a ride to the grocery store.
- 3 There is little evidence that these mandatory minimums will deter crime, but they remove a judge’s discretion to consider mitigating factors while sentencing a case.



SENATE BILL 4 88(4)

88 (4) Senate Bill 4: “Profiling Illegal Entry Bill”

SB 4 from the fourth special session 88(4) will be signed by Governor Abbot and will most likely become law in **March of 2024**.

- SB 4 creates an offense for “illegal entry” and “reentry” into the State of Texas. This creates a state-level criminal offense mirroring the civil offense from the federal U.S. Code Title 8, Section 1325.

Key Points:

- 1 SB 4 creates a Class B misdemeanor for an “alien” who enters the state or attempts to enter from a foreign nation at any location other than a lawful point of entry.
- 2 SB 4 establishes second and third-degree felony charges for “illegal reentry” for those previously denied admission, deported, or with an outstanding deportation order in the US.
- 3 A judge can issue a discharge order, directing the individual to return to their home country, provided the person agrees.
- 4 Individuals are exempt if they have lawful presence or asylum, their conduct aligns with federal law on entry, or they were approved for DACA between June 15, 2012, and July 16, 2021.
- 5 SB 4 cannot be enforced in specific places: primary or secondary schools, places of worship, health care facilities seeking medical treatment, or facilities providing forensic medical examinations for sexual assault survivors.

Implications

- 1 Law enforcement anywhere in the State of Texas will be allowed to detain and arrest individuals who cannot prove citizenship. Detained individuals are subject to an order from a judge to “return to the foreign nation from which they entered.”
- 2 The bill does not outline what is considered “probable cause” for arrest. This means an officer could racially profile an individual and gain probable cause to arrest based on the answer to one question: “Did you enter Texas at a lawful port of entry?”



FAMILY SAFETY PLANNING TOOLKIT

This toolkit was developed by the Office of State Representative Ana-Maria Ramos and the the Immigrant Services Network of Austin to assist individuals and families with preparing to respond effectively in the event of a local worksite raid or arrest and detention by Texas law enforcement allowed through SB4.

Our intent is two-fold and includes (1) educating immigrants about their rights, and (2) assisting individuals and families with preparing an emergency plan for their household.

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Texas State Representative
Ana-Maria Ramos
House District 102



KNOW YOUR RIGHTS

1. Right to remain silent

- You have the right to refuse to answer any question.
- You don't have to reveal your immigration status.
- Don't lie – just stay silent!



2. Ask to speak to a lawyer

- You have the right to contact an immigration attorney.
- Don't sign any document until you talk to an attorney.



3. Presenting false documents is a crime

- Don't carry false documents.
- False documents include both fake papers and real, government-issued identification with someone else's information.



4. Have a plan

- Prepare your family for any emergency, including your detention or arrest.
- Use the "**Family Safety Planning Toolkit**" to plan for child care, finances, emergency contacts, medical needs, and legal issues.



KNOW YOUR RIGHTS

At Work



Stay calm. Don't panic and don't run. If you act guilty, you'll be treated like a criminal.



Stay silent, use your "**Rights Card.**" Don't lie and do not admit guilt.

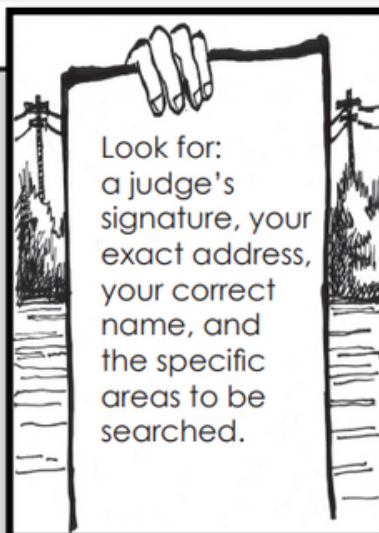
Create a "**solidarity plan**" with your coworkers, even if your immigration statuses are different. There's safety in unity – don't split up, stay silent together. "The community that is united cannot be divided."



At Home



Don't let officers into your home unless you see a valid warrant.



Look for:
a judge's signature, your exact address, your correct name, and the specific areas to be searched.



You have the right to remain silent at home, too.



FAMILY AND CHILDREN'S SAFETY PLANNING

Family Communication Plan

It is likely that your family will not be together in the case of an emergency, like a raid, so it is important to plan beforehand. Use this worksheet to discuss how your family members would communicate with each other in the event of an emergency.

Preparing your Family with Conversation

In case of an emergency ...

1. Do you know all of the full names, birth dates, and social security numbers or A-numbers for everyone in your family? Do you have this information memorized or written down somewhere safe?
2. Do you know how to find or contact the members of your family at home, work, school, or other places where your family spends time?
3. If you could not meet at home, where could your family meet in an emergency? Does everyone in the family know this meeting spot?
4. If you can't get in touch with each other, is there someone outside of the family whom you could contact? Does everyone in the family know this person and how to reach him/her?
5. If you have children, do you have a signed Power of Attorney? If not, please read the Legal Safety Planning section of this toolkit.



FAMILY AND CHILDREN'S SAFETY PLANNING

Family Information

NAME	DATE OF BIRTH	SOCIAL SECURITY NUMBER	A-NUMBER	PHONE NUMBER

Family Medical Information

NAME	DATE OF BIRTH	MEDICAL CONDITIONS	PRESCRIPTION	DOCTOR	PHARMACY	INSURANCE



FAMILY AND CHILDREN'S SAFETY PLANNING

Family Information

NAME	DATE OF BIRTH	SOCIAL SECURITY NUMBER	A-NUMBER	PHONE NUMBER

Emergency Meeting Place

Place name: _____ Address: _____

Non-Family Emergency Contact

Name: _____ Phone number: _____ Email Address: _____
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FAMILY AND CHILDREN'S SAFETY PLANNING

Invoking Power of Attorney

What is a Power of Attorney?

It is someone's right to act on your behalf regarding financial, medical, and legal matters in the event that you are unable or unavailable. You can select a trusted family member or friend to act as your Power of Attorney. To formally assign this role, fill out the Power of Attorney form (found in the Legal Safety Planning section of this toolkit).

Financial planning

- Does everyone in the family know who has Power of Attorney in case of an emergency?
- Does everyone in the family know which bank the family uses?
- Who has access to financial information such as the checking/savings account number, routing number, pin, etc?
- What monthly bills does your family pay? Who else could make those payments in an emergency?



LEGAL SAFETY PLANNING

Invoking Power of Attorney

Name: _____
Phone number: _____
Email Address: _____
Address: _____

Contact info for preferred Attorney

Name of Attorney: _____
Phone number: _____
Email Address: _____

Ally organizations

(social services providers, church or advocacy group that could give aid and legal advice)

Name of group: _____
Phone number: _____
Name of group: _____
Phone number: _____
Name of group: _____
Phone number: _____

Contact for consulate

Consulate : _____
Phone number: _____
Address: _____



POWER OF ATTORNEY FORM

STATUTORY DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, SUBTITLE P, TITLE 2, ESTATES CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO. IF YOU WANT YOUR AGENT TO HAVE THE AUTHORITY TO SIGN HOME EQUITY LOAN DOCUMENTS ON YOUR BEHALF, THIS POWER OF ATTORNEY MUST BE SIGNED BY YOU AT THE OFFICE OF THE LENDER, AN ATTORNEY AT LAW, OR A TITLE COMPANY.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until:

- (1) you die or revoke the power of attorney;
- (2) your agent resigns, is removed by court order, or is unable to act for you; or
- (3) a guardian is appointed for your estate.

I, _____ (insert your name and address), appoint
 _____ (insert the name and address of the person appointed) as my
 agent to act for me in any lawful way with respect to all of the following powers that I
 have initialed below. (YOU MAY APPOINT CO-AGENTS. UNLESS YOU PROVIDE
 OTHERWISE, CO-AGENTS MAY ACT INDEPENDENTLY.)

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF
 (O) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS LISTED IN (A)
 THROUGH (N).

TO GRANT A POWER, YOU MUST INITIAL THE LINE IN FRONT OF THE POWER
 YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF THE
 POWER. YOU MAY, BUT DO NOT NEED TO, CROSS OUT EACH POWER WITHHELD.

- _____ (A) Real property transactions;
- _____ (B) Tangible personal property transactions; |
- _____ (C) Stock and bond transactions;
- _____ (D) Commodity and option transactions;
- _____ (E) Banking and other financial institution transactions;
- _____ (F) Business operating transactions;
- _____ (G) Insurance and annuity transactions;
- _____ (H) Estate, trust, and other beneficiary transactions;
- _____ (I) Claims and litigation;
- _____ (J) Personal and family maintenance;
- _____ (K) Benefits from social security, Medicare, Medicaid, or other governmental

- _____ programs or civil or military service;
- _____ (L) Retirement plan transactions;
- _____ (M) Tax matters;
- _____ (N) Digital assets and the content of an electronic communication;
- _____ (O) ALL OF THE POWERS LISTED IN (A) THROUGH (N). YOU DO NOT HAVE TO INITIAL THE LINE IN FRONT OF ANY OTHER POWER IF YOU INITIAL LINE (O).

SPECIAL INSTRUCTIONS:

Special instructions applicable to agent compensation (initial in front of one of the following sentences to have it apply; if no selection is made, each agent will be entitled to compensation that is reasonable under the circumstances):

_____ My agent is entitled to reimbursement of reasonable expenses incurred on my behalf and to compensation that is reasonable under the circumstances.

_____ My agent is entitled to reimbursement of reasonable expenses incurred on my behalf but shall receive no compensation for serving as my agent.

Special instructions applicable to co-agents (if you have appointed co-agents to act, initial in front of one of the following sentences to have it apply; if no selection is made, each agent will be entitled to act independently):

_____ Each of my co-agents may act independently for me.

_____ My co-agents may act for me only if the co-agents act jointly.

_____ My co-agents may act for me only if a majority of the co-agents act jointly.

Special instructions applicable to gifts (initial in front of the following sentence to have it apply):

_____ I grant my agent the power to apply my property to make gifts outright to or for the benefit of a person, including by the exercise of a presently exercisable general power of appointment held by me, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

UNLESS YOU DIRECT OTHERWISE BELOW, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT TERMINATES.

CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE ALTERNATIVE NOT CHOSEN:

- (A) This power of attorney is not affected by my subsequent disability or incapacity.
- (B) This power of attorney becomes effective upon my disability or incapacity.

YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED.

IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT YOU CHOSE ALTERNATIVE (A).

If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or mental condition to another person for purposes of this power of attorney. A third party who accepts this power of attorney is fully protected from any action taken under this power of attorney that is based on the determination made by a physician of my disability or incapacity.

I agree that any third party who receives a copy of this document may act under it. Termination of this durable power of attorney is not effective as to a third party until the third party has actual knowledge of the termination. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney. The meaning and effect of this durable power of attorney is determined by Texas law.

If any agent named by me dies, becomes incapacitated, resigns, or refuses to act, or is removed by court order, or if my marriage to an agent named by me is dissolved by a court decree of divorce or annulment or is declared void by a court (unless I provided in this document that the dissolution or declaration does not terminate the agent's authority to act under this power of attorney), I name the following (each to act alone and successively, in the order named) as successor(s) to that agent:

Signed this _____ day of _____, _____.

(your signature)

State of _____
County of _____

This document was acknowledged before me on _____(date) by

(name of principal)

(signature of notarial officer)

(Seal, if any, of notary)

(printed name)

My commission expires: _____