

By: Landgraf

H.B. No. 2461

A BILL TO BE ENTITLED

1 AN ACT
2 relating to pretrial procedures and criminal punishment for conduct
3 that occurs during a riot; increasing criminal penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 17.03(b), Code of Criminal Procedure, is
6 amended to read as follows:

7 (b) Only the court before whom the case is pending may
8 release on personal bond a defendant who:

9 (1) is charged with an offense under the following
10 sections of the Penal Code:

11 (A) Section 19.03 (Capital Murder);

12 (B) Section 20.04 (Aggravated Kidnapping);

13 (C) Section 22.021 (Aggravated Sexual Assault);

14 (D) Section 22.03 (Deadly Assault on Law
15 Enforcement or Corrections Officer, Member or Employee of Board of
16 Pardons and Paroles, or Court Participant);

17 (E) Section 22.04 (Injury to a Child, Elderly
18 Individual, or Disabled Individual);

19 (F) Section 29.03 (Aggravated Robbery);

20 (G) Section 30.02 (Burglary);

21 (H) Section 71.02 (Engaging in Organized
22 Criminal Activity);

23 (I) Section 21.02 (Continuous Sexual Abuse of
24 Young Child or Children); [~~or~~]

1 (J) Section 20A.03 (Continuous Trafficking of
2 Persons);

3 (K) Section 42.02 (Riot); or

4 (L) Section 12.501(c), if the arresting officer
5 attests that at the time of the offense the actor was participating
6 in a riot, regardless of whether the actor is charged with an
7 offense under Section 42.02, Penal Code;

8 (2) is charged with a felony under Chapter 481, Health
9 and Safety Code, or Section 485.033, Health and Safety Code,
10 punishable by imprisonment for a minimum term or by a maximum fine
11 that is more than a minimum term or maximum fine for a first degree
12 felony; or

13 (3) does not submit to testing for the presence of a
14 controlled substance in the defendant's body as requested by the
15 court or magistrate under Subsection (c) of this article or submits
16 to testing and the test shows evidence of the presence of a
17 controlled substance in the defendant's body.

18 SECTION 2. Article 17.033, Code of Criminal Procedure, is
19 amended by adding Subsection (e) to read as follows:

20 (e) Notwithstanding the time limits imposed by Subsections
21 (a) and (b), a person who is arrested without a warrant for an
22 alleged violation of Section 42.02, Penal Code, or for an alleged
23 violation of an offense listed in Section 12.501(c), Penal Code, if
24 the arresting officer attests that at the time of the offense the
25 actor was participating in a riot, and who is detained in jail may
26 not be released on bond before the earlier of:

27 (1) the day on which the court before whom the case is

1 pending is reasonably able to verify the person's:

2 (A) name;

3 (B) address of primary residence;

4 (C) driver's license number and state of
5 issuance, if any;

6 (D) place of employment, if any; and

7 (E) current enrollment at an institution of
8 higher education, if any; or

9 (2) the fifth day after the commencement of the
10 person's detention.

11 SECTION 3. Subchapter D, Chapter 12, Penal Code, is amended
12 by adding Section 12.501 to read as follows:

13 Sec. 12.501. PENALTY IF OFFENSE COMMITTED DURING A RIOT.

14 (a) In this section, "riot" has the meaning assigned by Section
15 42.02.

16 (b) Subject to Subsections (d) and (e), the punishment for
17 an offense listed under Subsection (c) is increased to the
18 punishment prescribed for the next higher category of offense if it
19 is shown on the trial of the offense that at the time of the offense
20 the actor was participating in a riot.

21 (c) The increase in punishment authorized by this section
22 applies only to an offense under:

23 (1) Section 22.01 (Assault);

24 (2) Section 28.02 (Arson);

25 (3) Section 28.03 (Criminal Mischief);

26 (4) Section 29.02 (Robbery);

27 (5) Section 30.02 (Burglary);

1 (6) Section 30.03 (Burglary of Coin-operated or Coin
2 Collection Machines);

3 (7) Section 30.04 (Burglary of Vehicles);

4 (8) Section 30.05 (Criminal Trespass); and

5 (9) Section 31.03 (Theft).

6 (d) If an offense listed under Subsection (c) is punishable
7 as a Class A misdemeanor after the application of Subsection (b),
8 the minimum term of confinement for the offense shall be no less
9 than 180 days.

10 (e) If an offense listed under Subsection (c) is punishable
11 as a felony of the first degree, the punishment of that offense may
12 not be increased under this section.

13 SECTION 4. Articles 17.03 and 17.033, Code of Criminal
14 Procedure, as amended by this Act, apply only to a person who is
15 arrested on or after the effective date of this Act. A person
16 arrested before the effective date of this Act is governed by the
17 law in effect on the date the person was arrested, and the former
18 law is continued in effect for that purpose.

19 SECTION 5. Section 12.501, Penal Code, as added by this Act,
20 applies only to an offense committed on or after the effective date
21 of this Act. An offense committed before the effective date of this
22 Act is governed by the law in effect on the date the offense was
23 committed, and the former law is continued in effect for that
24 purpose. For purposes of this section, an offense was committed
25 before the effective date of this Act if any element of the offense
26 occurred before that date.

27 SECTION 6. This Act takes effect September 1, 2021.