

1-1 By: Birdwell S.B. No. 1900  
1-2 (In the Senate - Filed March 8, 2023; March 13, 2023, read  
1-3 first time and referred to Committee on Border Security;  
1-4 April 4, 2023, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 4, 2023,  
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Birdwell	X			
1-10	Flores	X			
1-11	Blanco	X			
1-12	Hinojosa	X			
1-13	King	X			

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 1900 By: Birdwell

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to foreign terrorist organizations, including the  
1-18 compilation of information regarding, certain civil actions  
1-19 brought against, and the prosecution of certain organized crime  
1-20 offenses involving a foreign terrorist organization.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Subchapter D, Chapter 125, Civil  
1-23 Practice and Remedies Code, is amended to read as follows:

1-24 SUBCHAPTER D. MEMBERSHIP IN CRIMINAL STREET GANG OR FOREIGN  
1-25 TERRORIST ORGANIZATION

1-26 SECTION 2. Sections 125.061(1) and (3), Civil Practice and  
1-27 Remedies Code, are amended to read as follows:

1-28 (1) "Combination," ~~and~~ "criminal street gang," and  
1-29 "foreign terrorist organization" have the meanings assigned by  
1-30 Section 71.01, Penal Code.

1-31 (3) "Gang activity" means the following types of  
1-32 conduct:

1-33 (A) organized criminal activity as described by  
1-34 Section 71.02, Penal Code;

1-35 (B) terroristic threat as described by Section  
1-36 22.07, Penal Code;

1-37 (C) coercing, inducing, or soliciting ~~[, or~~  
1-38 ~~inducing gang]~~ membership in a criminal street gang or foreign  
1-39 terrorist organization as described by Section 71.022(a) or (a-1),  
1-40 Penal Code;

1-41 (D) criminal trespass as described by Section  
1-42 30.05, Penal Code;

1-43 (E) disorderly conduct as described by Section  
1-44 42.01, Penal Code;

1-45 (F) criminal mischief as described by Section  
1-46 28.03, Penal Code, that causes a pecuniary loss of \$500 or more;

1-47 (G) a graffiti offense in violation of Section  
1-48 28.08, Penal Code;

1-49 (H) a weapons offense in violation of Chapter 46,  
1-50 Penal Code; or

1-51 (I) unlawful possession of a substance or other  
1-52 item in violation of Chapter 481, Health and Safety Code.

1-53 SECTION 3. Section 125.062, Civil Practice and Remedies  
1-54 Code, is amended to read as follows:

1-55 Sec. 125.062. PUBLIC NUISANCE; COMBINATION. A  
1-56 combination, ~~[or]~~ criminal street gang, or foreign terrorist  
1-57 organization that continuously or regularly associates in gang  
1-58 activities is a public nuisance.

1-59 SECTION 4. Section 125.063, Civil Practice and Remedies  
1-60 Code, is amended to read as follows:

1-61 Sec. 125.063. PUBLIC NUISANCE; USE OF PLACE. The habitual

use of a place by a combination, ~~[or]~~ criminal street gang, or foreign terrorist organization for engaging in gang activity is a public nuisance.

SECTION 5. Section 125.064(b), Civil Practice and Remedies Code, is amended to read as follows:

(b) Any person who habitually associates with others to engage in gang activity as a member of a combination, ~~[or]~~ criminal street gang, or foreign terrorist organization may be made a defendant in the suit. Any person who owns or is responsible for maintaining a place that is habitually used for engaging in gang activity may be made a defendant in the suit.

SECTION 6. Section 125.065(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) If the court finds that a combination, ~~[or]~~ criminal street gang, or foreign terrorist organization constitutes a public nuisance, the court may enter an order:

(1) enjoining a defendant in the suit from engaging in the gang activities of the combination, ~~[or]~~ criminal street gang, or foreign terrorist organization; and

(2) imposing other reasonable requirements to prevent the combination, ~~[or]~~ criminal street gang, or foreign terrorist organization from engaging in future gang activities.

SECTION 7. Section 125.069, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 125.069. USE OF PLACE; EVIDENCE. In an action brought under this subchapter, proof that gang activity by a member of a combination, ~~[or]~~ a criminal street gang, or a foreign terrorist organization is frequently committed at a place or proof that a place is frequently used for engaging in gang activity by a member of a combination, ~~[or]~~ a criminal street gang, or a foreign terrorist organization is prima facie evidence that the proprietor knowingly permitted the act, unless the act constitutes conspiring to commit gang activity.

SECTION 8. Sections 125.070(b), (c), and (e), Civil Practice and Remedies Code, are amended to read as follows:

(b) A criminal street gang or foreign terrorist organization or a member of a criminal street gang or foreign terrorist organization is liable to the state or a governmental entity injured by the violation of a temporary or permanent injunctive order under this subchapter.

(c) In an action brought against a member of a criminal street gang or a member of a foreign terrorist organization, the plaintiff must show that the member violated the temporary or permanent injunctive order.

(e) The property of the criminal street gang or foreign terrorist organization or a member of the criminal street gang or foreign terrorist organization may be seized in execution on a judgment under this section. Property may not be seized under this subsection if the owner or interest holder of the property proves by a preponderance of the evidence that the owner or interest holder was not a member of the criminal street gang or foreign terrorist organization and did not violate the temporary or permanent injunctive order. The owner or interest holder of property that is in the possession of a criminal street gang or foreign terrorist organization or a member of the criminal street gang or foreign terrorist organization and that is subject to execution under this subsection must show that the property:

(1) was stolen from the owner or interest holder; or  
(2) was used or intended to be used without the effective consent of the owner or interest holder by the criminal street gang or foreign terrorist organization or a member of the criminal street gang or foreign terrorist organization.

SECTION 9. Article 67.001, Code of Criminal Procedure, is amended by adding Subdivision (8-a) and amending Subdivision (9) to read as follows:

(8-a) "Foreign terrorist organization" has the meaning assigned by Section 71.01, Penal Code.

(9) "Intelligence database" means a collection or compilation of data organized for search and retrieval to evaluate,

analyze, disseminate, or use intelligence information relating to a combination, ~~[or]~~ criminal street gang, or foreign terrorist organization for the purpose of investigating or prosecuting a criminal offense.

SECTION 10. Articles 67.051(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) Subject to Subsection (b), a criminal justice agency or juvenile justice agency shall compile criminal information into an intelligence database for the purpose of investigating or prosecuting the criminal activities of combinations, ~~[or]~~ criminal street gangs, or foreign terrorist organizations.

(b) A law enforcement agency in a municipality with a population of 50,000 or more or in a county with a population of 100,000 or more shall compile and maintain in a local or regional intelligence database criminal information relating to a criminal street gang or a foreign terrorist organization as provided by Subsection (a). The agency must compile and maintain the information in accordance with the criminal intelligence systems operating policies established under 28 C.F.R. Section 23.1 et seq. and the submission criteria established under Article 67.054(b).

SECTION 11. Article 67.054(b), Code of Criminal Procedure, is amended to read as follows:

(b) Criminal information collected under this chapter relating to a criminal street gang or foreign terrorist organization must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:

(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang or foreign terrorist organization;

(B) a self-admission by an individual of membership in a criminal street gang or foreign terrorist organization ~~[membership]~~ that is made during a judicial proceeding; or

(C) except as provided by Subsection (c), any two of the following:

(i) a self-admission by the individual of membership in a criminal street gang or foreign terrorist organization ~~[membership]~~ that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang or foreign terrorist organization;

(ii) an identification of the individual as a member of a criminal street gang or foreign terrorist organization ~~[member]~~ by a reliable informant or other individual;

(iii) a corroborated identification of the individual as a member of a criminal street gang or foreign terrorist organization ~~[member]~~ by an informant or other individual of unknown reliability;

(iv) evidence that the individual frequents a documented area of a criminal street gang or foreign terrorist organization and associates with known members of a criminal street gang or foreign terrorist organization ~~[members]~~;

(v) evidence that the individual uses, in more than an incidental manner, criminal street gang or foreign terrorist organization dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by which the symbols are displayed, that are associated with a criminal street gang or foreign terrorist organization that operates in an area frequented by the individual and described by Subparagraph (iv);

(vi) evidence that the individual has been arrested or taken into custody with known members of a criminal street gang or foreign terrorist organization ~~[members]~~ for an offense or conduct consistent with ~~[criminal street]~~ gang activity as defined by Section 125.061, Civil Practice and Remedies Code;

(vii) evidence that the individual has visited a known member of a criminal street gang or foreign terrorist organization [~~member~~], other than a family member of the individual, while the [~~gang~~] member is confined in or committed to a penal institution; or

(viii) evidence of the individual's use of technology, including the Internet, to recruit new members of a criminal street gang or foreign terrorist organization [~~members~~].

SECTION 12. Articles 67.102(a) and (d), Code of Criminal Procedure, are amended to read as follows:

(a) Notwithstanding Chapter 58, Family Code, criminal information relating to a child associated with a combination, [~~or~~] criminal street gang, or foreign terrorist organization may be compiled and released under this chapter regardless of the age of the child.

(d) The governing body of a county or municipality served by a law enforcement agency described by Article 67.051(b) may adopt a policy to notify the parent or guardian of a child of the agency's observations relating to the child's association with a criminal street gang or foreign terrorist organization.

SECTION 13. Article 67.251, Code of Criminal Procedure, is amended to read as follows:

Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM. The office of the attorney general shall establish an electronic gang resource system to provide criminal justice agencies and juvenile justice agencies with information about criminal street gangs and foreign terrorist organizations in this state.

SECTION 14. Articles 67.252(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) The gang resource system established under Article 67.251 may include the following information with regard to any gang or foreign terrorist organization:

- (1) gang or organization name;
- (2) gang or organization identifiers, such as colors used, tattoos, and clothing preferences;
- (3) criminal activities;
- (4) migration trends;
- (5) recruitment activities; and
- (6) a local law enforcement contact.

(b) Information in the gang resource system shall be accessible according to:

- (1) municipality or county; and
- (2) gang or organization name.

SECTION 15. Article 67.254(a), Code of Criminal Procedure, is amended to read as follows:

(a) On request by the office of the attorney general, a criminal justice agency or juvenile justice agency shall make a reasonable attempt to provide gang and foreign terrorist organization information to the office of the attorney general for the purpose of maintaining an updated, comprehensive gang resource system.

SECTION 16. Article 67.255, Code of Criminal Procedure, is amended to read as follows:

Art. 67.255. USE OF INFORMATION. Information in the gang resource system may be used in investigating [~~gang-related~~] crimes relating to a criminal street gang or foreign terrorist organization. Information from the system may be included in an affidavit or subpoena or used in connection with any other legal or judicial proceeding only if the information is corroborated by information not provided by or maintained in the system.

SECTION 17. Section 71.01, Penal Code, is amended by adding Subsection (e) to read as follows:

(e) "Foreign terrorist organization" means three or more persons operating as an organization at least partially outside the United States who engage in criminal activity and threaten the security of this state or its residents, including but not limited to a drug cartel.

SECTION 18. Section 71.02(a), Penal Code, is amended to read as follows:



(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang or foreign terrorist organization, the person commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, continuous sexual abuse of young child or disabled individual, solicitation of a minor, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug;

(A) through forgery, fraud, misrepresentation, or deception; or

(B) with the intent to deliver the controlled substance or dangerous drug;

(5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8) any felony offense under Chapter 32;

(9) any offense under Chapter 36;

(10) any offense under Chapter 34, 35, or 35A;

(11) any offense under Section 37.11(a);

(12) any offense under Chapter 20A;

(13) any offense under Section 37.10;

(14) any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15) any offense under Section 42.10;

(16) any offense under Section 46.06(a)(1) or 46.14;

(17) any offense under Section 20.05, ~~or~~ 20.06, or 20.07;

(18) any offense under Section 16.02; or

(19) any offense classified as a felony under the Tax Code.

SECTION 19. The heading to Section 71.022, Penal Code, is amended to read as follows:

Sec. 71.022. COERCING, INDUCING, OR SOLICITING MEMBERSHIP IN A CRIMINAL STREET GANG OR FOREIGN TERRORIST ORGANIZATION.

SECTION 20. Sections 71.022(a) and (a-1), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person knowingly causes, enables, encourages, recruits, or solicits another person to become a member of a criminal street gang or foreign terrorist organization which, as a condition of initiation, admission, membership, or continued membership, requires the commission of any conduct which constitutes an offense punishable as a Class A misdemeanor or a felony.

(a-1) A person commits an offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang or foreign terrorist organization, the person:

(1) threatens the child or a member of the child's family with imminent bodily injury; or

(2) causes bodily injury to the child or a member of

the child's family.

SECTION 21. Section 71.023, Penal Code, is amended to read as follows:

Sec. 71.023. DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS OR FOREIGN TERRORIST ORGANIZATIONS. (a) A person commits an offense if the person, as part of the identifiable leadership of a criminal street gang or foreign terrorist organization, knowingly finances, directs, or supervises the commission of, or a conspiracy to commit, one or more of the following offenses by members of a criminal street gang or foreign terrorist organization:

(1) a felony offense that is listed in Article 42A.054(a), Code of Criminal Procedure;

(2) a felony offense for which it is shown that a deadly weapon, as defined by Section 1.07, was used or exhibited during the commission of the offense or during immediate flight from the commission of the offense; or

(3) an offense that is punishable under Section 481.112(e) or (f), 481.1121(b)(4), 481.1123(d), (e), or (f), 481.115(f), or 481.120(b)(6), Health and Safety Code.

(b) An offense under this section is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years.

SECTION 22. Chapter 125, Civil Practice and Remedies Code, as amended by this Act, applies only to an action commenced on or after the effective date of this Act. An action commenced before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 23. Chapter 71, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. 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 24. This Act takes effect September 1, 2023.

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