

Amend **SB 158** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 71.02(a), Penal Code, as amended by Chapters 153 (**SB 2225**), 1130 (**HB 2086**), and 1357 (**SB 554**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and 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, 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, 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 through forgery, fraud, misrepresentation, or deception;

(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 or 35;
- (11) any offense under Section 37.11(a);
- (12) any offense under Chapter 20A;
- (13) any offense under Section 37.10; [~~or~~]
- (14) any offense under Section 38.06, 38.07, 38.09, or 38.11;
- (15) [~~(14)~~] any offense under Section 42.10; or
- (16) [~~(14)~~] any offense under Section 46.06(a)(1) or 46.14.

SECTION \_\_\_\_\_. Sections 71.02(b) and (c), Penal Code, as amended by Chapters 761 (**HB 354**) and 900 (**SB 1067**), Acts of the 73rd Legislature, Regular Session, 1993, are reenacted to read as follows:

(b) Except as provided in Subsections (c) and (d), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree.

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit.

SECTION \_\_\_\_\_. Section 71.05(a), Penal Code, as amended by Chapters 761 (**HB 3544**) and 900 (**SB 1067**), Acts of the 73rd Legislature, Regular Session, 1993, is reenacted and amended to read as follows:

(a) It is an affirmative defense to prosecution under Section 71.02 that under circumstances manifesting a voluntary and complete renunciation of the actor's [~~his~~] criminal objective, the actor withdrew from the combination before commission of an offense listed in [~~Subsection (a) of~~] Section 71.02(a) [~~71.02~~] and took further affirmative action that prevented the commission of the offense.

SECTION \_\_\_\_\_. Section 71.05(c), Penal Code, is amended to

read as follows:

(c) Evidence that the defendant withdrew from the combination before commission of an offense listed in [~~Subdivisions (1) through (7) or Subdivision (10) of Subsection (a) of~~] Section 71.02(a) [~~71.02 of this code~~] and made substantial effort to prevent the commission of an offense listed in [~~Subdivisions (1) through (7) or Subdivision (10) of Subsection (a) of~~] Section 71.02(a) [~~71.02 of this code~~] shall be admissible as mitigation at the hearing on punishment if the actor [~~he~~] has been found guilty under Section 71.02 [~~of this code~~], and in the event of a finding of renunciation under this subsection, the punishment shall be one grade lower than that provided under Section 71.02 [~~of this code~~].

SECTION \_\_\_\_\_. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.