

BILL ANALYSIS

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S.B. 1741
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Throughout 2020, Texas saw a dramatic increase in rioting violence. In May 2020, Governor Abbott found it necessary to respond to this violence by declaring a state of disaster and strategically deploying 1,500 Department of Public Safety officers across the state. This conduct poses a significant threat to private property and public safety. The results of these unlawful demonstrations ranged from blocked roadways up to deadly violence.

In a number of cases, rioters have posted bond before police or corrections personnel are able to verify their personal information (e.g., name, address, driver's license number, etc.). Without this information, many rioters from out of state are beyond the court's practical summoning capabilities and evade further prosecution. Equally disconcerting for local law enforcement is the fact that an individual charged with criminal rioting in the morning can be released on bond to rejoin an active riot during the same day.

S.B. 1741 deters rioting, prevents those charged with rioting from escaping justice, and allows our criminal justice systems to better respond to riots when they occur.

S.B. 1741 stipulates that only the court before whom the case is pending may release a defendant charged with rioting on personal bond. It further requires that a defendant charged with rioting may not be released on bond before the earlier of (1) the verification of the defendant's personal information or (2) the third day after their arrest.

S.B. 1741 enhances penalties associated with certain crimes if committed in the course of a riot. The legislation criminalizes the use of fireworks to interfere with law enforcement duties, and it increases penalties for causing harm to uniformed safety officers by use of laser pointers.

Lastly, S.B. 1741 deters the unlawful obstruction of certain passageways. The legislation increases the penalty for obstructing a roadway if doing so prevents (1) the passage of an authorized emergency vehicle or (2) access to a health care facility. If a defendant is charged under either of these two specific obstruction offenses, the court's ability to grant probation would be contingent on the defendant's willingness to submit to a minimum of 10 days confinement in the county jail.

As proposed, S.B. 1741 amends current law relating to pretrial procedures, conditions for community supervision, and criminal punishment for conduct endangering the public safety; creates a criminal offense and increases criminal penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 17.03(b), Code of Criminal Procedure, as follows:

(b) Authorizes only the court before whom the case is pending to release on personal bond a defendant who meets certain requirements, including a defendant who is charged with an offense under Section 42.02 (Riot), Penal Code. Makes nonsubstantive changes.

SECTION 2. Amends Article 17.033, Code of Criminal Procedure, by adding Subsection (e), as follows:

(e) Prohibits a person who is arrested without a warrant for an alleged violation of Section 42.02, Penal Code, and who is detained in jail, notwithstanding the time limits imposed by Subsections (a) (relating to requiring a person who is arrested for a misdemeanor without a warrant to be released from jail not later than 24 hours after the arrest) and (b) (relating to requiring a person who is arrested for a felony without a warrant to be released from jail not later than 48 hours after the arrest), from being released on bond before the earlier of:

(1) the day on which the court before whom the case is pending is reasonably able to verify the person's name, address of primary residence, driver's license number and state of issuance, if any, place of employment, if any, and current enrollment at an institution of higher education, if any; or

(2) the 72nd hour after the commencement of the person's detention.

SECTION 3. Amends Subchapter K, Chapter 42A, Code of Criminal Procedure, by adding Article 42A.517, as follows:

Art. 42A.517. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES INVOLVING OBSTRUCTION OF HIGHWAY OR OTHER PASSAGEWAY. Requires a court granting community supervision to a defendant convicted of an offense punishable as a state jail felony under Section 42.03 (Obstructing Highway or Other Passageway), Penal Code, to require as a condition of community supervision that the defendant submit to not less than 10 days of confinement in a county jail.

SECTION 4. Amends Subchapter D, Chapter 12, Penal Code, by adding Section 12.501, as follows:

Sec. 12.501. PENALTY IF OFFENSE COMMITTED DURING A RIOT. (a) Defines "riot."

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

(c) Provides that the increase in punishment authorized by this section applies only to an offense under certain enumerated sections of the Penal Code.

(d) Requires that the minimum term of confinement for the offense be no less than 180 days if an offense listed under Subsection (c) is punishable as a Class A misdemeanor after the application of Subsection (b).

(e) Prohibits the punishment of an offense listed under Subsection (c), if that offense is punishable as a felony of the first degree, from being increased under this section.

SECTION 5. Amends Section 42.03(c), Penal Code, as follows:

(c) Provides that an offense under this section is a Class B misdemeanor, except that the offense is a state jail felony if, in committing the offense, the actor knowingly:

(1) prevents the passage of an authorized emergency vehicle, as defined by Section 541.201 (Vehicles), Transportation Code, that is operating the vehicle's emergency audible or visual signals; or

(2) obstructs access to a hospital licensed under Chapter 241 (Hospitals), Health and Safety Code, or other health care facility that provides emergency medical care, as defined by Section 773.003 (Definitions), Health and Safety Code.

SECTION 6. Amends Section 42.13, Penal Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Provides that an offense under Section 42.13 (Use of Laser Pointers) is a Class C misdemeanor, except that the offense is:

(1) a felony of the third degree if the conduct causes bodily injury to the officer; or

(2) a felony of the first degree if the conduct causes serious bodily injury to the officer.

(d) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section or the other law, but not both.

SECTION 7. Amends Title 10, Penal Code, by adding Chapter 50, as follows:

CHAPTER 50. FIREWORKS

Sec. 50.01. DEFINITIONS. Defines "consumer firework," "fireworks," and "law enforcement officer."

Sec. 50.02. UNLAWFUL USE OF FIREWORKS. (a) Provides that a person commits an offense if the person explodes or ignites fireworks with the intent to interfere with the lawful performance of an official duty by a law enforcement officer, or with the intent to flee from a person the actor knows is a law enforcement officer attempting to lawfully arrest or detain the actor.

(b) Provides that, except as provided by Subsections (c) and (d), an offense under this section is a state jail felony.

(c) Provides that an offense under this section that involves any firework that is not a consumer firework is a second degree felony.

(d) Provides that, notwithstanding Subsection (c), an offense under this section is a felony of the first degree if the offense causes serious bodily injury to a person the actor knows is a law enforcement officer while the law enforcement officer is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a law enforcement officer.

(e) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

SECTION 8. Makes application of Articles 17.03 and 17.033, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 9. Makes application of Article 42A.517, Code of Criminal Procedure, as added by this Act, Sections 12.501 and 50.02, Penal Code, as added by this Act, and Sections 42.03 and 42.13, Penal Code, as amended by this Act, prospective.

SECTION 10. Effective date: September 1, 2021.