

By: Birdwell

S.B. No. 1741

A BILL TO BE ENTITLED

1 AN ACT
2 relating to pretrial procedures, conditions for community
3 supervision, and criminal punishment for conduct endangering the
4 public safety; creating a criminal offense and increasing criminal
5 penalties.

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

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

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

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

13 (A) Section 19.03 (Capital Murder);

14 (B) Section 20.04 (Aggravated Kidnapping);

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

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

19 (E) Section 22.04 (Injury to a Child, Elderly
20 Individual, or Disabled Individual);

21 (F) Section 29.03 (Aggravated Robbery);

22 (G) Section 30.02 (Burglary);

23 (H) Section 71.02 (Engaging in Organized
24 Criminal Activity);

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

3 (J) Section 20A.03 (Continuous Trafficking of
4 Persons); or

5 (K) Section 42.02 (Riot);

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

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

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

18 (e) Notwithstanding the time limits imposed by Subsections
19 (a) and (b), a person who is arrested without a warrant for an
20 alleged violation of Section 42.02, Penal Code, and who is detained
21 in jail may not be released on bond before the earlier of:

22 (1) the day on which the court before whom the case is
23 pending is reasonably able to verify the person's:

24 (A) name;

25 (B) address of primary residence;

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

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

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

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

6 SECTION 3. Subchapter [K](#), Chapter [42A](#), Code of Criminal
7 Procedure, is amended by adding Article 42A.517 to read as follows:

8 Art. 42A.517. COMMUNITY SUPERVISION FOR CERTAIN OFFENSES
9 INVOLVING OBSTRUCTION OF HIGHWAY OR OTHER PASSAGEWAY. A court
10 granting community supervision to a defendant convicted of an
11 offense punishable as a state jail felony under Section [42.03](#),
12 Penal Code, shall require as a condition of community supervision
13 that the defendant submit to not less than 10 days of confinement in
14 a county jail.

15 SECTION 4. Subchapter [D](#), Chapter [12](#), Penal Code, is amended
16 by adding Section 12.501 to read as follows:

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

18 (a) In this section, "riot" has the meaning assigned by Section
19 [42.02](#).

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

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

27 (1) Section [22.01](#) (Assault);

- 1 (2) Section 28.02 (Arson);
- 2 (3) Section 28.03 (Criminal Mischief);
- 3 (4) Section 29.02 (Robbery);
- 4 (5) Section 30.02 (Burglary);
- 5 (6) Section 30.03 (Burglary of Coin-operated or Coin
6 Collection Machines);
- 7 (7) Section 30.04 (Burglary of Vehicles);
- 8 (8) Section 30.05 (Criminal Trespass);
- 9 (9) Section 31.03 (Theft); and
- 10 (10) Section 50.02 (Unlawful Use of Fireworks).

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

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

18 SECTION 5. Section 42.02, Penal Code, is amended by adding
19 Subsection (a-1) to read as follows:

20 (a-1) The term "riot" as defined by Subsection (a) does not
21 include an assemblage of seven or more persons gathering to
22 exercise their rights under the First Amendment to the United
23 States Constitution or Section 8, Article I, Texas Constitution,
24 unless those persons engage in conduct described by Subsection (a).

25 SECTION 6. Section 42.03(c), Penal Code, is amended to read
26 as follows:

27 (c) An offense under this section is a Class B misdemeanor,

1 except that the offense is a state jail felony if, in committing the
2 offense, the actor knowingly:

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

6 (2) obstructs access to a hospital licensed under
7 Chapter 241, Health and Safety Code, or other health care facility
8 that provides emergency medical care, as defined by Section
9 773.003, Health and Safety Code.

10 SECTION 7. Section 42.13, Penal Code, is amended by
11 amending Subsection (c) and adding Subsection (d) to read as
12 follows:

13 (c) An offense under this section is a Class C misdemeanor,
14 except that the offense is:

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

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

19 (d) If conduct that constitutes an offense under this
20 section also constitutes an offense under any other law, the actor
21 may be prosecuted under this section or the other law, but not both.

22 SECTION 8. Title 10, Penal Code, is amended by adding
23 Chapter 50 to read as follows:

24 CHAPTER 50. FIREWORKS

25 Sec. 50.01. DEFINITIONS. In this chapter:

26 (1) "Consumer firework" and "fireworks" have the
27 meanings assigned by 49 C.F.R. Section 173.59.

1 (2) "Law enforcement officer" means a person who is a
2 peace officer under Article 2.12, Code of Criminal Procedure, or a
3 person who is a federal law enforcement officer, as defined by 5
4 U.S.C. Section 8331(20).

5 Sec. 50.02. UNLAWFUL USE OF FIREWORKS. (a) A person
6 commits an offense if the person explodes or ignites fireworks with
7 the intent to:

8 (1) interfere with the lawful performance of an
9 official duty by a law enforcement officer; or

10 (2) flee from a person the actor knows is a law
11 enforcement officer attempting to lawfully arrest or detain the
12 actor.

13 (b) Except as provided by Subsections (c) and (d), an
14 offense under this section is a state jail felony.

15 (c) An offense under this section that involves any firework
16 that is not a consumer firework is a second degree felony.

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

24 (e) If conduct constituting an offense under this section
25 also constitutes an offense under any other law, the actor may be
26 prosecuted under this section, the other law, or both.

27 SECTION 9. Articles 17.03 and 17.033, Code of Criminal

1 Procedure, as amended by this Act, apply only to a person who is
2 arrested on or after the effective date of this Act. A person
3 arrested before the effective date of this Act is governed by the
4 law in effect on the date the person was arrested, and the former
5 law is continued in effect for that purpose.

6 SECTION 10. Article 42A.517, Code of Criminal Procedure, as
7 added by this Act, Sections 12.501 and 50.02, Penal Code, as added
8 by this Act, and Sections 42.02, 42.03, and 42.13, Penal Code, as
9 amended by this Act, apply only to an offense committed on or after
10 the effective date of this Act. An offense committed before the
11 effective date of this Act is governed by the law in effect when the
12 offense was committed, and the former law is continued in effect for
13 that purpose. For purposes of this section, an offense was
14 committed before the effective date of this Act if any element of
15 the offense occurred before that date.

16 SECTION 11. This Act takes effect September 1, 2021.