

By: Blanco

S.B. No. 2139

A BILL TO BE ENTITLED

1 AN ACT
2 relating to criminal offenses related to mass violence; creating
3 criminal offenses; changing the eligibility for community
4 supervision; creating a grant program.

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

6 SECTION 1. Article 18A.101, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 18A.101. OFFENSES FOR WHICH INTERCEPTION ORDER MAY BE
9 ISSUED. A judge of competent jurisdiction may issue an
10 interception order only if the prosecutor applying for the order
11 shows probable cause to believe that the interception will provide
12 evidence of the commission of:

13 (1) a felony under any of the following provisions of
14 the Health and Safety Code:

15 (A) Chapter 481, other than felony possession of
16 marihuana;

17 (B) Chapter 483; or

18 (C) Section 485.032;

19 (2) an offense under any of the following provisions
20 of the Penal Code:

21 (A) Section 19.02;

22 (B) Section 19.03;

23 (C) Section 20.03;

24 (D) Section 20.04;

1 (E) Chapter 20A;

2 (F) Chapter 23;

3 (G) Chapter 34, if the criminal activity giving
4 rise to the proceeds involves the commission of an offense under
5 Title 5, Penal Code, or an offense under federal law or the laws of
6 another state containing elements that are substantially similar to
7 the elements of an offense under Title 5;

8 (H) [~~(G)~~] Section 38.11;

9 (I) [~~(H)~~] Section 43.04;

10 (J) [~~(I)~~] Section 43.041;

11 (K) [~~(J)~~] Section 43.05; or

12 (L) [~~(K)~~] Section 43.26; or

13 (3) an attempt, conspiracy, or solicitation to commit
14 an offense listed in Subdivision (1) or (2).

15 SECTION 2. Article 42A.054(a), Code of Criminal Procedure,
16 is amended to read as follows:

17 (a) Article 42A.053 does not apply to a defendant adjudged
18 guilty of an offense under:

19 (1) Section 15.03, Penal Code, if the offense is
20 punishable as a felony of the first degree;

21 (2) Section 19.02, Penal Code (Murder);

22 (3) Section 19.03, Penal Code (Capital Murder);

23 (4) Section 20.04, Penal Code (Aggravated
24 Kidnapping);

25 (5) Section 20A.02, Penal Code (Trafficking of
26 Persons);

27 (6) Section 20A.03, Penal Code (Continuous

1 Trafficking of Persons);

2 (7) Section 21.11, Penal Code (Indecency with a

3 Child);

4 (8) Section 22.011, Penal Code (Sexual Assault);

5 (9) Section 22.021, Penal Code (Aggravated Sexual

6 Assault);

7 (10) Section 22.04(a)(1), Penal Code (Injury to a

8 Child, Elderly Individual, or Disabled Individual), if:

9 (A) the offense is punishable as a felony of the

10 first degree; and

11 (B) the victim of the offense is a child;

12 (11) Section 23.01, Penal Code (Mass Violence);

13 (12) Section 23.02, Penal Code (Mass Violence: False

14 Statement);

15 (13) Section 29.03, Penal Code (Aggravated Robbery);

16 (14) [~~12~~] Section 30.02, Penal Code (Burglary), if:

17 (A) the offense is punishable under Subsection

18 (d) of that section; and

19 (B) the actor committed the offense with the

20 intent to commit a felony under Section 21.02, 21.11, 22.011,

21 22.021, or 25.02, Penal Code;

22 (15) [~~13~~] Section 43.04, Penal Code (Aggravated

23 Promotion of Prostitution);

24 (16) [~~14~~] Section 43.05, Penal Code (Compelling

25 Prostitution);

26 (17) [~~15~~] Section 43.25, Penal Code (Sexual

27 Performance by a Child); or

1 (18) [~~16~~] Chapter 481, Health and Safety Code, for
2 which punishment is increased under:

3 (A) Section 481.140 of that code (Use of Child in
4 Commission of Offense); or

5 (B) Section 481.134(c), (d), (e), or (f) of that
6 code (Drug-free Zones) if it is shown that the defendant has been
7 previously convicted of an offense for which punishment was
8 increased under any of those subsections.

9 SECTION 3. Title 5, Penal Code, is amended by adding Chapter
10 23 to read as follows:

11 CHAPTER 23. MASS VIOLENCE

12 Sec. 23.01. MASS VIOLENCE. (a) A person commits an offense
13 if, during the same criminal transaction or pursuant to the same
14 scheme or course of conduct:

15 (1) the person uses a deadly weapon to commit
16 aggravated assault as defined under Section 22.02(a)(1) or to
17 commit murder as defined under Section 19.02(b)(1); and

18 (2) four or more people suffer serious bodily injury
19 or death as a result of the person's conduct.

20 (b) An offense under Subsection (a) is a capital felony,
21 except that the offense under Subsection (a) is a felony of the
22 first degree if the offense resulted only in serious bodily injury.

23 (c) A person commits an offense if the person intentionally
24 or knowingly takes two or more substantial steps of preparation
25 that, in concert, would cause a reasonable person to believe that
26 the person intends to commit an offense under Subsection (a).

27 (d) An offense under Subsection (c) is a felony of the third

1 degree.

2 Sec. 23.02. MASS VIOLENCE: FALSE STATEMENT. (a) A person
3 commits an offense if the person intentionally or knowingly conveys
4 information to another person:

5 (1) that the actor knows to be false or misleading;

6 (2) in a manner that would cause a reasonable person to
7 believe that the information is true; and

8 (3) that indicates that an offense under Section
9 23.01(a) has been or will be committed.

10 (b) An offense under this section is a state jail felony.

11 (c) It is an affirmative defense to prosecution under this
12 section that at the time of the offense the actor was a peace
13 officer or federal special investigator engaged in the actual
14 discharge of the officer's or investigator's duties.

15 Sec. 23.03. MASS VIOLENCE: MATERIAL SUPPORT OR RESOURCES.

16 (a) In this section, "material support or resources" means any
17 property, service, or personnel.

18 (b) A person commits an offense if the person solicits or
19 acquires material support or resources while intending or knowing
20 that the material support or resources will be used to further the
21 commission of an offense under Section 23.01(a).

22 (c) A person commits an offense if the person, while
23 intending or knowing that the material support or resources will be
24 used to further the commission of an offense under Section
25 23.01(a):

26 (1) provides material support or resources to a
27 person; or

1 (2) conceals or disguises the nature, location, or
2 ownership of material support or resources.

3 (d) An offense under this section is a felony of the third
4 degree, except that the offense is a felony of the second degree if
5 the offense or the attempt to commit an offense under Section
6 23.01(a) resulted in the serious bodily injury or death of a person.

7 Sec. 23.04. APPLICABILITY OF OTHER LAW. If conduct that
8 constitutes an offense under this chapter also constitutes an
9 offense under other law, the actor may be prosecuted under the
10 applicable section of this chapter, the other law, or both.

11 SECTION 4. Section 38.05, Penal Code, is amended by
12 amending Subsection (c) and adding Subsection (e) to read as
13 follows:

14 (c) Except as provided by Subsections [~~Subsection~~] (d) and
15 (e), an offense under this section is a Class A misdemeanor.

16 (e) If the person who is harbored, concealed, provided with
17 a means of avoiding arrest or effecting escape, or warned of
18 discovery or apprehension is under arrest for, charged with, or
19 convicted of an offense or an attempt to commit an offense under
20 Section 23.01(a):

21 (1) an offense under this section is a felony of the
22 second degree if the offense or attempted offense under Section
23 23.01(a) did not result in the serious bodily injury or death of a
24 person; and

25 (2) an offense under this section is a felony of the
26 first degree if the offense or attempted offense under Section
27 23.01(a) resulted in the serious bodily injury or death of a person.

1 Section 5. Subchapter A, Chapter 772, Government Code, is
2 amended by adding Section 772.0077 to read as follows:

3 Sec. 772.0077. PROSECUTION OF MASS VIOLENCE GRANT PROGRAM.

4 (a) In this section:

5 (1) "Criminal justice division" means the criminal
6 justice division established under Section 772.006.

7 (2) "Mass violence" means any offense for which,
8 during the same criminal transaction or pursuant to the same scheme
9 or course of conduct, a person uses a deadly weapon to commit
10 aggravated assault as defined under Section 22.02(a)(1) or to
11 commit murder as defined under Section 19.02(b)(1), Penal Code, and
12 four or more people suffer serious bodily injury or death as a
13 result of the person's conduct

14 (3) "Eligible prosecuting attorney" means a district
15 attorney, criminal district attorney, or county attorney with
16 felony criminal jurisdiction.

17 (4) "Serious Bodily injury" has the meaning assigned
18 by Section 1.07, Penal Code.

19 (b) The criminal justice division shall establish and
20 administer a grant program through which counties and judicial
21 districts that operate an eligible prosecuting attorney's office
22 may apply for a grant to support the prosecution of mass violence in
23 a county or counties under the jurisdiction of the attorney.

24 (c) The criminal justice division shall establish:

25 (1) additional eligibility criteria for grant
26 applicants;

27 (2) grant application procedures;

1 (3) guidelines relating to grant amounts;

2 (4) procedures for evaluating grant applications; and

3 (5) procedures for monitoring the use of a grant
4 awarded under the program and ensuring compliance with any
5 conditions of a grant.

6 (d) The criminal justice division shall include in the
7 biennial report required by Section 772.006(a)(9) a detailed
8 reporting of the results and performance of the grant program
9 administered under this section.

10 SECTION 6. The changes in law made by this Act apply only to
11 an offense committed on or after the effective date of this Act. An
12 offense committed before the effective date of this Act is governed
13 by the law in effect on the date the offense was committed, and the
14 former law is continued in effect for that purpose. For purposes of
15 this section, an offense was committed before the effective date of
16 this Act if any element of the offense occurred before that date.

17 SECTION 7. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2021.