

BILL ANALYSIS

Senate Research Center
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S.B. 1427
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Border Security
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In fiscal year 2021, border arrests in Texas exceeded 1.15 million, not including got-aways. In 2022, there were nearly 1.8 million with the majority being illegal entries. So far, in the current fiscal year, encounters are more than 645 thousand which puts Texas on pace to eclipse more than 1.5 million for the year. Most of these numbers can be attributed to cartels, as a recent report revealed that they are profiting nearly \$13 billion per year on human trafficking operations in the US and throughout Central America. On top of this, Texas taxpayers are paying nearly \$13.4 billion a year because of illegal immigration.

Furthermore, most illegal drugs and narcotics enter the United States through the southern border. This led to more than 656 thousand pounds of drugs being seized in 2022. Fentanyl alone accounted for around 692 pounds of the drugs seized in 2022 at the Texas-Mexico border.

All these crises at the southern border have led to many wanting to designate cartels as foreign terrorist organizations. This concept has been supported at the federal level, including by Attorney General Merrick Garland. While the federal government continues its inaction, Texas must continue to implement policies that strengthen immigration laws and protect our state from future abuse by cartels.

S.B. 1427 seeks to accomplish this by defining a foreign terrorist organization and making it a minimum ten-year mandatory minimum sentence for anyone caught smuggling in Texas. This legislation will provide enhanced penalties for operating stash houses and criminal penalties for foreign terrorist organizations, as well as increased intelligence operations against such organizations. Additionally, it will amend current law by adding smuggling and stash house operations to the list of offenses committed in a disaster area with increased penalties and add intent to deliver a controlled substance to the Penal Code.

As proposed, S.B. 1427 amends current law relating to certain criminal conduct and organizations that threaten the security of this state and its residents and borders 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

ARTICLE 1. CRIMINAL CONDUCT INVOLVING SMUGGLING OF PERSONS OR OPERATION OF A STASH HOUSE

SECTION 1.01. Amends Section 12.50, Penal Code, by amending Subsections (a), (b), and (c) and adding Subsection (d), as follows:

- (a) Provides that the punishment for an offense described by Subsection (b), subject to Subsections (c) and (d), rather than 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 the offense was committed in an area that was, at the time of the offense subject to a certain state of disaster or emergency.

(b) Provides that the increase in punishment authorized by Section 12.50 (Penalty if Offense Committed in Disaster Area or Evacuated Area) applies only to an offense under:

(1) Section 20.05 (Smuggling of Persons);

(2) Section 20.06 (Continuous Smuggling of Persons);

(3) Section 20.07 (Operation of Stash House);

(4)-(11) redesignates existing Subsections (1)-(8) as Subsections (4)-(11).

(c) Provides that the minimum term of confinement for the offense is increased to 180 days if an offense listed under Subsection (b), rather than Subsection (b)(1), (5), (6), (7), or (8), is punishable as a Class A misdemeanor. Prohibits the punishment for an offense from being increased under this section, except as provided by Subsection (d), if an offense listed under Subsection (b) is punishable as a felony of the first degree.

(d) Provides that the minimum term of imprisonment for an offense listed under Subsection (b)(1) or (2) for which punishment is increased under this section, except as otherwise provided by this subsection, is 10 years. Provides that the minimum term of imprisonment is increased to 15 years unless another provision of law applicable to the offense provides for a minimum term of imprisonment of 15 years or more, if an offense listed under Subsection (b)(1) or (2) is punishable as a felony of the first degree.

SECTION 1.02. Amends Section 20.05(b), Penal Code, as follows:

(b) Provides that an offense under this section is a felony of the third degree with a term of imprisonment of 10 years, except that the offense is:

(1) a felony of the second degree with a minimum term of imprisonment of 10 years if certain criteria are met; or

(2) a felony of the first degree with a minimum term of imprisonment of 10 years if certain criteria are met.

SECTION 1.03. Amends Sections 20.06(e) and (f), Penal Code, as follows:

(e) Provides that an offense under this section is a felony of the second degree with a minimum term of imprisonment of 10 years, except as provided by Subsections (f) and (g) (relating to the punishment for conduct in which the person being smuggled was sexually assaulted or suffered serious bodily injury or death).

(f) Provides that an offense under this section is a felony of the first degree with a minimum term of imprisonment of 10 years if certain criteria are met.

SECTION 1.04. Amends Section 20.07(b), Penal Code, to provide that an offense under this section is a felony of the third degree, rather than a Class A misdemeanor.

SECTION 1.05. Makes application of this article prospective.

ARTICLE 2. FOREIGN TERRORIST ORGANIZATIONS

SECTION 2.01. Amends the heading to Subchapter D, Chapter 125, Civil Practice and Remedies Code, to read as follows:

SUBCHAPTER D. MEMBERSHIP IN CRIMINAL STREET GANG OR FOREIGN
TERRORIST ORGANIZATION

SECTION 2.02. Amends Sections 125.061(1) and (3), Civil Practice and Remedies Code to define "foreign terrorist organization" and redefine "gang activity."

SECTION 2.03. Amends Section 125.062, Civil Practice and Remedies Code, as follows:

Sec. 125.062. PUBLIC NUISANCE; COMBINATION. Makes conforming and nonsubstantive changes to this section.

SECTION 2.04. Amends Section 125.063, Civil Practice and Remedies Code, as follows:

Sec. 125.063. PUBLIC NUISANCE; USE OF PLACE. Makes conforming and nonsubstantive changes to this section.

SECTION 2.05. Amends Section 125.064(b), Civil Practice and Remedies Code, to make a conforming and nonsubstantive changes.

SECTION 2.06. Amends Section 125.065(a), Civil Practice and Remedies Code, to make conforming and nonsubstantive changes.

SECTION 2.07. Amends Section 125.069, Civil Practice and Remedies Code, as follows:

Sec. 125.069. USE OF PLACE; EVIDENCE. Makes conforming and nonsubstantive changes to this section.

SECTION 2.08. Amends Sections 125.070(b), (c), and (e), Civil Practice and Remedies Code, as follows:

(b) Makes conforming changes to this subsection.

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

(e) Makes conforming changes to this subsection.

SECTION 2.09. Amends Article 67.001, Code of Criminal Procedure, by adding Subdivision (8-a) and amending Subdivision (9) to define "foreign terrorist organization" and redefine "intelligence database."

SECTION 2.10. Amends Articles 67.051(a) and (b), Code of Criminal Procedure, to make conforming and nonsubstantive changes.

SECTION 2.11. Amends Article 67.054(b), Code of Criminal Procedure, to make conforming and nonsubstantive changes.

SECTION 2.12. Amends Articles 67.102(a) and (d), Code of Criminal Procedure, to make conforming changes.

SECTION 2.13. Amends Article 67.251, Code of Criminal Procedure, as follows:

Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM. Requires the Office of the Attorney General to 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 2.14. Amends Articles 67.252(a) and (b), Code of Criminal Procedure, as follows:

(a) Authorizes the gang resource system established under Article 67.251 to include certain information with regard to any gang or foreign terrorist organization, including gang or organization name, and gang or organization identifiers, such as colors used, tattoos, and clothing preferences.

(b) Makes a conforming change to this subsection.

SECTION 2.15. Amends Article 67.254(a), Code of Criminal Procedure, to make a conforming change.

SECTION 2.16. Amends Article 67.255, Code of Criminal Procedure, as follows:

Art. 67.255. USE OF INFORMATION. Authorizes the information in the gang resource system to be used in investigating crimes relating to a criminal street gang or foreign terrorist organization rather than gang-related crimes.

SECTION 2.17. Amends Section 71.01, Penal Code, by adding Subsection (e) to define "foreign terrorist organization."

SECTION 2.18. Amends Section 71.02(a), Penal Code, as follows:

(a) Provides that 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)-(4) makes no changes to these subdivisions;

(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) creates this paragraph from existing text; or

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

(5-a)-(16) makes no changes to these subdivisions;

(17) any offense under certain sections, including Section 20.07; or

(18)-(19) makes no changes to these subdivisions.

SECTION 2.19. Amends the heading to Section 71.022, Penal Code, to read, as follows:

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

SECTION 2.20. Amends Sections 71.022(a) and (a-1), Penal Code, as follows:

(a) Provides that 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) Makes a conforming change to this subsection.

SECTION 2.21. Amends Section 71.023, Penal Code, as follows:

Sec. 71.023. New heading: DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS OR FOREIGN TERRORIST ORGANIZATIONS. (a) Makes conforming changes to this subsection.

(b) Makes no changes to this subsection.

SECTION 2.22. Amends Section 5.005, Property Code, as follows:

Sec. 5.005. ALIENS. Creates an exception under Section 5.0051.

SECTION 2.23. Amends Subchapter A, Chapter 5, Property Code, by adding Section 5.0051, as follows:

Sec. 5.0051. ACQUISITION OF TITLE TO REAL PROPERTY BY FOREIGN TERRORIST ORGANIZATION. Prohibits a foreign terrorist organization, as defined by Section 71.01, Penal Code, and identified by the Department of Public Safety of the State of Texas intelligence database described by Article 67.052 (Department Intelligence Database), Code of Criminal Procedure, notwithstanding any other law, from purchasing or otherwise acquiring title to real property in this state.

SECTION 2.24. Makes application of Chapter 125, Civil Practices and Remedies Code, as amended by this article, prospective.

SECTION 2.25. Makes application of Chapter 71, Penal Code, as amended by this article, prospective.

SECTION 2.26. Makes application of Section 5.0051, Property Code, as added by this article, prospective.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: September 1, 2023.