

By: Guillen

H.B. No. 3499

A BILL TO BE ENTITLED

AN ACT

1
2 relating to foreign terrorist organizations, including the
3 acquisition of title to real property by, the compilation of
4 information regarding, certain civil actions brought against, and
5 the prosecution of certain organized crime offenses involving a
6 foreign terrorist organization.

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

8 SECTION 1. The heading to Subchapter D, Chapter 125, Civil
9 Practice and Remedies Code, is amended to read as follows:

10 SUBCHAPTER D. MEMBERSHIP IN CRIMINAL STREET GANG OR FOREIGN

11 TERRORIST ORGANIZATION

12 SECTION 2. Sections 125.061(1) and (3), Civil Practice and
13 Remedies Code, are amended to read as follows:

14 (1) "Combination₁" ~~[and]~~ "criminal street gang₁" and
15 "foreign terrorist organization" have the meanings assigned by
16 Section 71.01, Penal Code.

17 (3) "Gang activity" means the following types of
18 conduct:

19 (A) organized criminal activity as described by
20 Section 71.02, Penal Code;

21 (B) terroristic threat as described by Section
22 22.07, Penal Code;

23 (C) coercing, inducing, or soliciting [~~or~~
24 ~~inducing gang~~] membership in a criminal street gang or foreign

1 terrorist organization as described by Section 71.022(a) or (a-1),
2 Penal Code;

3 (D) criminal trespass as described by Section
4 30.05, Penal Code;

5 (E) disorderly conduct as described by Section
6 42.01, Penal Code;

7 (F) criminal mischief as described by Section
8 28.03, Penal Code, that causes a pecuniary loss of \$500 or more;

9 (G) a graffiti offense in violation of Section
10 28.08, Penal Code;

11 (H) a weapons offense in violation of Chapter 46,
12 Penal Code; or

13 (I) unlawful possession of a substance or other
14 item in violation of Chapter 481, Health and Safety Code.

15 SECTION 3. Section 125.062, Civil Practice and Remedies
16 Code, is amended to read as follows:

17 Sec. 125.062. PUBLIC NUISANCE; COMBINATION. A
18 combination, ~~or~~ criminal street gang, or foreign terrorist
19 organization that continuously or regularly associates in gang
20 activities is a public nuisance.

21 SECTION 4. Section 125.063, Civil Practice and Remedies
22 Code, is amended to read as follows:

23 Sec. 125.063. PUBLIC NUISANCE; USE OF PLACE. The habitual
24 use of a place by a combination, ~~or~~ criminal street gang, or
25 foreign terrorist organization for engaging in gang activity is a
26 public nuisance.

27 SECTION 5. Section 125.064(b), Civil Practice and Remedies

1 Code, is amended to read as follows:

2 (b) Any person who habitually associates with others to
3 engage in gang activity as a member of a combination, ~~[or]~~ criminal
4 street gang, or foreign terrorist organization may be made a
5 defendant in the suit. Any person who owns or is responsible for
6 maintaining a place that is habitually used for engaging in gang
7 activity may be made a defendant in the suit.

8 SECTION 6. Section 125.065(a), Civil Practice and Remedies
9 Code, is amended to read as follows:

10 (a) If the court finds that a combination, ~~[or]~~ criminal
11 street gang, or foreign terrorist organization constitutes a public
12 nuisance, the court may enter an order:

13 (1) enjoining a defendant in the suit from engaging in
14 the gang activities of the combination, ~~[or]~~ criminal street gang,
15 or foreign terrorist organization; and

16 (2) imposing other reasonable requirements to prevent
17 the combination, ~~[or]~~ criminal street gang, or foreign terrorist
18 organization from engaging in future gang activities.

19 SECTION 7. Section 125.069, Civil Practice and Remedies
20 Code, is amended to read as follows:

21 Sec. 125.069. USE OF PLACE; EVIDENCE. In an action brought
22 under this subchapter, proof that gang activity by a member of a
23 combination, ~~[or]~~ a criminal street gang, or a foreign terrorist
24 organization is frequently committed at a place or proof that a
25 place is frequently used for engaging in gang activity by a member
26 of a combination, ~~[or]~~ a criminal street gang, or a foreign
27 terrorist organization is prima facie evidence that the proprietor

1 knowingly permitted the act, unless the act constitutes conspiring
2 to commit gang activity.

3 SECTION 8. Sections 125.070(b), (c), and (e), Civil
4 Practice and Remedies Code, are amended to read as follows:

5 (b) A criminal street gang or foreign terrorist
6 organization or a member of a criminal street gang or foreign
7 terrorist organization is liable to the state or a governmental
8 entity injured by the violation of a temporary or permanent
9 injunctive order under this subchapter.

10 (c) In an action brought against a member of a criminal
11 street gang or a member of a foreign terrorist organization, the
12 plaintiff must show that the member violated the temporary or
13 permanent injunctive order.

14 (e) The property of the criminal street gang or foreign
15 terrorist organization or a member of the criminal street gang or
16 foreign terrorist organization may be seized in execution on a
17 judgment under this section. Property may not be seized under this
18 subsection if the owner or interest holder of the property proves by
19 a preponderance of the evidence that the owner or interest holder
20 was not a member of the criminal street gang or foreign terrorist
21 organization and did not violate the temporary or permanent
22 injunctive order. The owner or interest holder of property that is
23 in the possession of a criminal street gang or foreign terrorist
24 organization or a member of the criminal street gang or foreign
25 terrorist organization and that is subject to execution under this
26 subsection must show that the property:

27 (1) was stolen from the owner or interest holder; or

1 (2) was used or intended to be used without the
2 effective consent of the owner or interest holder by the criminal
3 street gang or foreign terrorist organization or a member of the
4 criminal street gang or foreign terrorist organization.

5 SECTION 9. Article 67.001, Code of Criminal Procedure, is
6 amended by adding Subdivision (8-a) and amending Subdivision (9) to
7 read as follows:

8 (8-a) "Foreign terrorist organization" has the meaning
9 assigned by Section 71.01, Penal Code.

10 (9) "Intelligence database" means a collection or
11 compilation of data organized for search and retrieval to evaluate,
12 analyze, disseminate, or use intelligence information relating to a
13 combination, ~~[or]~~ criminal street gang, or foreign terrorist
14 organization for the purpose of investigating or prosecuting a
15 criminal offense.

16 SECTION 10. Articles 67.051(a) and (b), Code of Criminal
17 Procedure, are amended to read as follows:

18 (a) Subject to Subsection (b), a criminal justice agency or
19 juvenile justice agency shall compile criminal information into an
20 intelligence database for the purpose of investigating or
21 prosecuting the criminal activities of combinations, ~~[or]~~ criminal
22 street gangs, or foreign terrorist organizations.

23 (b) A law enforcement agency in a municipality with a
24 population of 50,000 or more or in a county with a population of
25 100,000 or more shall compile and maintain in a local or regional
26 intelligence database criminal information relating to a criminal
27 street gang or a foreign terrorist organization as provided by

1 Subsection (a). The agency must compile and maintain the
2 information in accordance with the criminal intelligence systems
3 operating policies established under 28 C.F.R. Section 23.1 et seq.
4 and the submission criteria established under Article 67.054(b).

5 SECTION 11. Article 67.054(b), Code of Criminal Procedure,
6 is amended to read as follows:

7 (b) Criminal information collected under this chapter
8 relating to a criminal street gang or foreign terrorist
9 organization must:

10 (1) be relevant to the identification of an
11 organization that is reasonably suspected of involvement in
12 criminal activity; and

13 (2) consist of:

14 (A) a judgment under any law that includes, as a
15 finding or as an element of a criminal offense, participation in a
16 criminal street gang or foreign terrorist organization;

17 (B) a self-admission by an individual of
18 membership in a criminal street gang or foreign terrorist
19 organization [~~membership~~] that is made during a judicial
20 proceeding; or

21 (C) except as provided by Subsection (c), any two
22 of the following:

23 (i) a self-admission by the individual of
24 membership in a criminal street gang or foreign terrorist
25 organization [~~membership~~] that is not made during a judicial
26 proceeding, including the use of the Internet or other electronic
27 format or medium to post photographs or other documentation

1 identifying the individual as a member of a criminal street gang or
2 foreign terrorist organization;

3 (ii) an identification of the individual as
4 a member of a criminal street gang or foreign terrorist
5 organization [~~member~~] by a reliable informant or other individual;

6 (iii) a corroborated identification of the
7 individual as a member of a criminal street gang or foreign
8 terrorist organization [~~member~~] by an informant or other individual
9 of unknown reliability;

10 (iv) evidence that the individual frequents
11 a documented area of a criminal street gang or foreign terrorist
12 organization and associates with known members of a criminal street
13 gang or foreign terrorist organization [~~members~~];

14 (v) evidence that the individual uses, in
15 more than an incidental manner, criminal street gang or foreign
16 terrorist organization dress, hand signals, tattoos, or symbols,
17 including expressions of letters, numbers, words, or marks,
18 regardless of how or the means by which the symbols are displayed,
19 that are associated with a criminal street gang or foreign
20 terrorist organization that operates in an area frequented by the
21 individual and described by Subparagraph (iv);

22 (vi) evidence that the individual has been
23 arrested or taken into custody with known members of a criminal
24 street gang or foreign terrorist organization [~~members~~] for an
25 offense or conduct consistent with [~~criminal street~~] gang activity
26 as defined by Section 125.061, Civil Practice and Remedies Code;

27 (vii) evidence that the individual has

1 visited a known member of a criminal street gang or foreign
2 terrorist organization [~~member~~], other than a family member of the
3 individual, while the [~~gang~~] member is confined in or committed to a
4 penal institution; or

5 (viii) evidence of the individual's use of
6 technology, including the Internet, to recruit new members of a
7 criminal street gang or foreign terrorist organization [~~members~~].

8 SECTION 12. Articles 67.102(a) and (d), Code of Criminal
9 Procedure, are amended to read as follows:

10 (a) Notwithstanding Chapter 58, Family Code, criminal
11 information relating to a child associated with a combination, [or]
12 criminal street gang, or foreign terrorist organization may be
13 compiled and released under this chapter regardless of the age of
14 the child.

15 (d) The governing body of a county or municipality served by
16 a law enforcement agency described by Article 67.051(b) may adopt a
17 policy to notify the parent or guardian of a child of the agency's
18 observations relating to the child's association with a criminal
19 street gang or foreign terrorist organization.

20 SECTION 13. Article 67.251, Code of Criminal Procedure, is
21 amended to read as follows:

22 Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM. The
23 office of the attorney general shall establish an electronic gang
24 resource system to provide criminal justice agencies and juvenile
25 justice agencies with information about criminal street gangs and
26 foreign terrorist organizations in this state.

27 SECTION 14. Articles 67.252(a) and (b), Code of Criminal

1 Procedure, are amended to read as follows:

2 (a) The gang resource system established under Article
3 67.251 may include the following information with regard to any
4 gang or foreign terrorist organization:

5 (1) gang or organization name;

6 (2) gang or organization identifiers, such as colors
7 used, tattoos, and clothing preferences;

8 (3) criminal activities;

9 (4) migration trends;

10 (5) recruitment activities; and

11 (6) a local law enforcement contact.

12 (b) Information in the gang resource system shall be
13 accessible according to:

14 (1) municipality or county; and

15 (2) gang or organization name.

16 SECTION 15. Article 67.254(a), Code of Criminal Procedure,
17 is amended to read as follows:

18 (a) On request by the office of the attorney general, a
19 criminal justice agency or juvenile justice agency shall make a
20 reasonable attempt to provide gang and foreign terrorist
21 organization information to the office of the attorney general for
22 the purpose of maintaining an updated, comprehensive gang resource
23 system.

24 SECTION 16. Article 67.255, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 67.255. USE OF INFORMATION. Information in the gang
27 resource system may be used in investigating [~~gang-related~~] crimes

1 relating to a criminal street gang or foreign terrorist
2 organization. Information from the system may be included in an
3 affidavit or subpoena or used in connection with any other legal or
4 judicial proceeding only if the information is corroborated by
5 information not provided by or maintained in the system.

6 SECTION 17. Section 71.01, Penal Code, is amended by adding
7 Subsection (e) to read as follows:

8 (e) "Foreign terrorist organization" means three or more
9 persons operating as an organization at least partially outside the
10 United States who engage in criminal activity and threaten the
11 security of this state or its residents, including but not limited
12 to a drug cartel.

13 SECTION 18. Section 71.02(a), Penal Code, is amended to
14 read as follows:

15 (a) A person commits an offense if, with the intent to
16 establish, maintain, or participate in a combination or in the
17 profits of a combination or as a member of a criminal street gang or
18 foreign terrorist organization, the person commits or conspires to
19 commit one or more of the following:

20 (1) murder, capital murder, arson, aggravated
21 robbery, robbery, burglary, theft, aggravated kidnapping,
22 kidnapping, aggravated assault, aggravated sexual assault, sexual
23 assault, continuous sexual abuse of young child or disabled
24 individual, solicitation of a minor, forgery, deadly conduct,
25 assault punishable as a Class A misdemeanor, burglary of a motor
26 vehicle, or unauthorized use of a motor vehicle;

27 (2) any gambling offense punishable as a Class A

1 misdemeanor;

2 (3) promotion of prostitution, aggravated promotion
3 of prostitution, or compelling prostitution;

4 (4) unlawful manufacture, transportation, repair, or
5 sale of firearms or prohibited weapons;

6 (5) unlawful manufacture, delivery, dispensation, or
7 distribution of a controlled substance or dangerous drug, or
8 unlawful possession of a controlled substance or dangerous drug:

9 (A) through forgery, fraud, misrepresentation,
10 or deception; or

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

13 (5-a) causing the unlawful delivery, dispensation, or
14 distribution of a controlled substance or dangerous drug in
15 violation of Subtitle B, Title 3, Occupations Code;

16 (6) any unlawful wholesale promotion or possession of
17 any obscene material or obscene device with the intent to wholesale
18 promote the same;

19 (7) any offense under Subchapter B, Chapter 43,
20 depicting or involving conduct by or directed toward a child
21 younger than 18 years of age;

22 (8) any felony offense under Chapter 32;

23 (9) any offense under Chapter 36;

24 (10) any offense under Chapter 34, 35, or 35A;

25 (11) any offense under Section 37.11(a);

26 (12) any offense under Chapter 20A;

27 (13) any offense under Section 37.10;

- 1 (14) any offense under Section 38.06, 38.07, 38.09, or
2 38.11;
3 (15) any offense under Section 42.10;
4 (16) any offense under Section 46.06(a)(1) or 46.14;
5 (17) any offense under Section 20.05, ~~or~~ 20.06, or
6 20.07;
7 (18) any offense under Section 16.02; or
8 (19) any offense classified as a felony under the Tax
9 Code.

10 SECTION 19. The heading to Section 71.022, Penal Code, is
11 amended to read as follows:

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

14 SECTION 20. Sections 71.022(a) and (a-1), Penal Code, are
15 amended to read as follows:

16 (a) A person commits an offense if the person knowingly
17 causes, enables, encourages, recruits, or solicits another person
18 to become a member of a criminal street gang or foreign terrorist
19 organization which, as a condition of initiation, admission,
20 membership, or continued membership, requires the commission of any
21 conduct which constitutes an offense punishable as a Class A
22 misdemeanor or a felony.

23 (a-1) A person commits an offense if, with intent to coerce,
24 induce, or solicit a child to actively participate in the
25 activities of a criminal street gang or foreign terrorist
26 organization, the person:

27 (1) threatens the child or a member of the child's

1 family with imminent bodily injury; or

2 (2) causes bodily injury to the child or a member of
3 the child's family.

4 SECTION 21. Section 71.023, Penal Code, is amended to read
5 as follows:

6 Sec. 71.023. DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS
7 OR FOREIGN TERRORIST ORGANIZATIONS. (a) A person commits an
8 offense if the person, as part of the identifiable leadership of a
9 criminal street gang or foreign terrorist organization, knowingly
10 finances, directs, or supervises the commission of, or a conspiracy
11 to commit, one or more of the following offenses by members of a
12 criminal street gang or foreign terrorist organization:

13 (1) a felony offense that is listed in Article
14 42A.054(a), Code of Criminal Procedure;

15 (2) a felony offense for which it is shown that a
16 deadly weapon, as defined by Section 1.07, was used or exhibited
17 during the commission of the offense or during immediate flight
18 from the commission of the offense; or

19 (3) an offense that is punishable under Section
20 481.112(e) or (f), 481.1121(b)(4), 481.1123(d), (e), or (f),
21 481.115(f), or 481.120(b)(6), Health and Safety Code.

22 (b) An offense under this section is a felony of the first
23 degree punishable by imprisonment in the Texas Department of
24 Criminal Justice for life or for any term of not more than 99 years
25 or less than 25 years.

26 SECTION 22. Section 5.005, Property Code, is amended to
27 read as follows:

1 Sec. 5.005. ALIENS. Except as provided by Section 5.0051,
2 an [An] alien has the same real and personal property rights as a
3 United States citizen.

4 SECTION 23. Subchapter A, Chapter 5, Property Code, is
5 amended by adding Section 5.0051 to read as follows:

6 Sec. 5.0051. ACQUISITION OF TITLE TO REAL PROPERTY BY
7 FOREIGN TERRORIST ORGANIZATION. Notwithstanding any other law, a
8 foreign terrorist organization, as defined by Section 71.01, Penal
9 Code, and identified by the Department of Public Safety
10 intelligence database described by Article 67.052, Code of Criminal
11 Procedure, may not purchase or otherwise acquire title to real
12 property in this state.

13 SECTION 24. Chapter 125, Civil Practice and Remedies Code,
14 as amended by this Act, applies only to an action commenced on or
15 after the effective date of this Act. An action commenced before the
16 effective date of this Act is governed by the law as it existed
17 immediately before the effective date of this Act, and that law is
18 continued in effect for that purpose.

19 SECTION 25. Chapter 71, Penal Code, as amended by this Act,
20 applies only to an offense committed on or after the effective date
21 of this Act. An offense committed before the effective date of this
22 Act is governed by the law in effect on the date the offense was
23 committed, and the former law is continued in effect for that
24 purpose. For purposes of this section, an offense was committed
25 before the effective date of this Act if any element of the offense
26 occurred before that date.

27 SECTION 26. Section 5.0051, Property Code, as added by this

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1 Act, applies only to the purchase of or acquisition of title to real
2 property on or after the effective date of this Act.

3 SECTION 27. This Act takes effect September 1, 2023.