

By: Flores

S.B. No. 1427

A BILL TO BE ENTITLED

AN ACT

relating to certain criminal conduct and organizations that threaten the security of this state and its residents and borders; increasing criminal penalties.

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

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

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

(a) Subject to Subsections ~~[Subsection]~~ (c) and (d), the punishment for an offense described by Subsection (b) 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:

(1) subject to a declaration of a state of disaster made by:

(A) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(B) the governor under Section 418.014, Government Code; or

(C) the presiding officer of the governing body of a political subdivision under Section 418.108, Government Code;

1 or

2 (2) subject to an emergency evacuation order.

3 (b) The increase in punishment authorized by this section  
4 applies only to an offense under:

5 (1) Section 20.05;

6 (2) Section 20.06;

7 (3) Section 20.07;

8 (4) Section 22.01;

9 (5) [~~(2)~~] Section 28.02;

10 (6) [~~(3)~~] Section 29.02;

11 (7) [~~(4)~~] Section 30.02;

12 (8) [~~(5)~~] Section 30.03;

13 (9) [~~(6)~~] Section 30.04;

14 (10) [~~(7)~~] Section 30.05; and

15 (11) [~~(8)~~] Section 31.03.

16 (c) If an offense listed under Subsection (b) [~~(b)(1), (5),~~  
17 ~~(6), (7), or (8)]~~ is punishable as a Class A misdemeanor, the  
18 minimum term of confinement for the offense is increased to 180  
19 days. Except as provided by Subsection (d), if [~~If~~] an offense  
20 listed under Subsection (b) [~~(b)(2), (4), or (8)]~~ is punishable as a  
21 felony of the first degree, the punishment for that offense may not  
22 be increased under this section.

23 (d) Except as otherwise provided by this subsection, the  
24 minimum term of imprisonment for an offense listed under Subsection  
25 (b)(1) or (2) for which punishment is increased under this section  
26 is 10 years. If an offense listed under Subsection (b)(1) or (2) is  
27 punishable as a felony of the first degree, the minimum term of

1 imprisonment is increased to 15 years unless another provision of  
2 law applicable to the offense provides for a minimum term of  
3 imprisonment of 15 years or more.

4 SECTION 1.02. Section 20.05(b), Penal Code, is amended to  
5 read as follows:

6 (b) An offense under this section is a felony of the third  
7 degree with a term of imprisonment of 10 years, except that the  
8 offense is:

9 (1) a felony of the second degree with a minimum term  
10 of imprisonment of 10 years if:

11 (A) the actor commits the offense in a manner  
12 that creates a substantial likelihood that the smuggled individual  
13 will suffer serious bodily injury or death;

14 (B) the smuggled individual is a child younger  
15 than 18 years of age at the time of the offense;

16 (C) the offense was committed with the intent to  
17 obtain a pecuniary benefit;

18 (D) during the commission of the offense the  
19 actor, another party to the offense, or an individual assisted,  
20 guided, or directed by the actor knowingly possessed a firearm; or

21 (E) the actor commits the offense under  
22 Subsection (a)(1)(B); or

23 (2) a felony of the first degree with a minimum term of  
24 imprisonment of 10 years if:

25 (A) it is shown on the trial of the offense that,  
26 as a direct result of the commission of the offense, the smuggled  
27 individual became a victim of sexual assault, as defined by Section

1 22.011, or aggravated sexual assault, as defined by Section 22.021;

2 or

3 (B) the smuggled individual suffered serious  
4 bodily injury or death.

5 SECTION 1.03. Sections 20.06(e) and (f), Penal Code, are  
6 amended to read as follows:

7 (e) Except as provided by Subsections (f) and (g), an  
8 offense under this section is a felony of the second degree with a  
9 minimum term of imprisonment of 10 years.

10 (f) An offense under this section is a felony of the first  
11 degree with a minimum term of imprisonment of 10 years if:

12 (1) the conduct constituting an offense under Section  
13 20.05 is conducted in a manner that creates a substantial  
14 likelihood that the smuggled individual will suffer serious bodily  
15 injury or death; or

16 (2) the smuggled individual is a child younger than 18  
17 years of age at the time of the offense.

18 SECTION 1.04. Section 20.07(b), Penal Code, is amended to  
19 read as follows:

20 (b) An offense under this section is a felony of the third  
21 degree [~~Class A misdemeanor~~].

22 SECTION 1.05. The changes in law made by this article apply  
23 only to an offense committed on or after the effective date of this  
24 Act. An offense committed before the effective date of this Act is  
25 governed by the law in effect on the date the offense was committed,  
26 and the former law is continued in effect for that purpose. For  
27 purposes of this section, an offense was committed before the

1 effective date of this Act if any element of the offense was  
2 committed before that date.

3 ARTICLE 2. FOREIGN TERRORIST ORGANIZATIONS

4 SECTION 2.01. The heading to Subchapter D, Chapter 125,  
5 Civil Practice and Remedies Code, is amended to read as follows:

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

8 SECTION 2.02. Sections 125.061(1) and (3), Civil Practice  
9 and Remedies Code, are amended to read as follows:

10 (1) "Combination<sub>L</sub>" ~~[and]~~ "criminal street gang<sub>L</sub>" and  
11 "foreign terrorist organization" have the meanings assigned by  
12 Section 71.01, Penal Code.

13 (3) "Gang activity" means the following types of  
14 conduct:

15 (A) organized criminal activity as described by  
16 Section 71.02, Penal Code;

17 (B) terroristic threat as described by Section  
18 22.07, Penal Code;

19 (C) coercing, inducing, or soliciting [~~or~~  
20 ~~inducing gang~~] membership in a criminal street gang or foreign  
21 terrorist organization as described by Section 71.022(a) or (a-1),  
22 Penal Code;

23 (D) criminal trespass as described by Section  
24 30.05, Penal Code;

25 (E) disorderly conduct as described by Section  
26 42.01, Penal Code;

27 (F) criminal mischief as described by Section

1 28.03, Penal Code, that causes a pecuniary loss of \$500 or more;

2 (G) a graffiti offense in violation of Section  
3 28.08, Penal Code;

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

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

8 SECTION 2.03. Section 125.062, Civil Practice and Remedies  
9 Code, is amended to read as follows:

10 Sec. 125.062. PUBLIC NUISANCE; COMBINATION. A  
11 combination, ~~or~~ criminal street gang, or foreign terrorist  
12 organization that continuously or regularly associates in gang  
13 activities is a public nuisance.

14 SECTION 2.04. Section 125.063, Civil Practice and Remedies  
15 Code, is amended to read as follows:

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

20 SECTION 2.05. Section 125.064(b), Civil Practice and  
21 Remedies Code, is amended to read as follows:

22 (b) Any person who habitually associates with others to  
23 engage in gang activity as a member of a combination, ~~or~~ criminal  
24 street gang, or foreign terrorist organization may be made a  
25 defendant in the suit. Any person who owns or is responsible for  
26 maintaining a place that is habitually used for engaging in gang  
27 activity may be made a defendant in the suit.

1 SECTION 2.06. Section 125.065(a), Civil Practice and  
2 Remedies Code, is amended to read as follows:

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

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

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

12 SECTION 2.07. Section 125.069, Civil Practice and Remedies  
13 Code, is amended to read as follows:

14 Sec. 125.069. USE OF PLACE; EVIDENCE. In an action brought  
15 under this subchapter, proof that gang activity by a member of a  
16 combination, ~~[or]~~ a criminal street gang, or a foreign terrorist  
17 organization is frequently committed at a place or proof that a  
18 place is frequently used for engaging in gang activity by a member  
19 of a combination, ~~[or]~~ a criminal street gang, or a foreign  
20 terrorist organization is prima facie evidence that the proprietor  
21 knowingly permitted the act, unless the act constitutes conspiring  
22 to commit gang activity.

23 SECTION 2.08. Sections 125.070(b), (c), and (e), Civil  
24 Practice and Remedies Code, are amended to read as follows:

25 (b) A criminal street gang or foreign terrorist  
26 organization or a member of a criminal street gang or foreign  
27 terrorist organization is liable to the state or a governmental

1 entity injured by the violation of a temporary or permanent  
2 injunctive order under this subchapter.

3 (c) In an action brought against a member of a criminal  
4 street gang or a member of a foreign terrorist organization, the  
5 plaintiff must show that the member violated the temporary or  
6 permanent injunctive order.

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

20 (1) was stolen from the owner or interest holder; or  
21 (2) was used or intended to be used without the  
22 effective consent of the owner or interest holder by the criminal  
23 street gang or foreign terrorist organization or a member of the  
24 criminal street gang or foreign terrorist organization.

25 SECTION 2.09. Article 67.001, Code of Criminal Procedure,  
26 is amended by adding Subdivision (8-a) and amending Subdivision (9)  
27 to read as follows:



1           (8-a) "Foreign terrorist organization" has the meaning  
2 assigned by Section 71.01, Penal Code.

3           (9) "Intelligence database" means a collection or  
4 compilation of data organized for search and retrieval to evaluate,  
5 analyze, disseminate, or use intelligence information relating to a  
6 combination, ~~[or]~~ criminal street gang, or foreign terrorist  
7 organization for the purpose of investigating or prosecuting a  
8 criminal offense.

9           SECTION 2.10. Articles 67.051(a) and (b), Code of Criminal  
10 Procedure, are amended to read as follows:

11           (a) Subject to Subsection (b), a criminal justice agency or  
12 juvenile justice agency shall compile criminal information into an  
13 intelligence database for the purpose of investigating or  
14 prosecuting the criminal activities of combinations, ~~[or]~~ criminal  
15 street gangs, or foreign terrorist organizations.

16           (b) A law enforcement agency in a municipality with a  
17 population of 50,000 or more or in a county with a population of  
18 100,000 or more shall compile and maintain in a local or regional  
19 intelligence database criminal information relating to a criminal  
20 street gang or a foreign terrorist organization as provided by  
21 Subsection (a). The agency must compile and maintain the  
22 information in accordance with the criminal intelligence systems  
23 operating policies established under 28 C.F.R. Section 23.1 et seq.  
24 and the submission criteria established under Article 67.054(b).

25           SECTION 2.11. Article 67.054(b), Code of Criminal  
26 Procedure, is amended to read as follows:

27           (b) Criminal information collected under this chapter

1 relating to a criminal street gang or foreign terrorist  
2 organization must:

3 (1) be relevant to the identification of an  
4 organization that is reasonably suspected of involvement in  
5 criminal activity; and

6 (2) consist of:

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

10 (B) a self-admission by an individual of  
11 membership in a criminal street gang or foreign terrorist  
12 organization [~~membership~~] that is made during a judicial  
13 proceeding; or

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

16 (i) a self-admission by the individual of  
17 membership in a criminal street gang or foreign terrorist  
18 organization [~~membership~~] that is not made during a judicial  
19 proceeding, including the use of the Internet or other electronic  
20 format or medium to post photographs or other documentation  
21 identifying the individual as a member of a criminal street gang or  
22 foreign terrorist organization;

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

26 (iii) a corroborated identification of the  
27 individual as a member of a criminal street gang or foreign

1 terrorist organization [~~member~~] by an informant or other individual  
2 of unknown reliability;

3 (iv) evidence that the individual frequents  
4 a documented area of a criminal street gang or foreign terrorist  
5 organization and associates with known members of a criminal street  
6 gang or foreign terrorist organization [~~members~~];

7 (v) evidence that the individual uses, in  
8 more than an incidental manner, criminal street gang or foreign  
9 terrorist organization dress, hand signals, tattoos, or symbols,  
10 including expressions of letters, numbers, words, or marks,  
11 regardless of how or the means by which the symbols are displayed,  
12 that are associated with a criminal street gang or foreign  
13 terrorist organization that operates in an area frequented by the  
14 individual and described by Subparagraph (iv);

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

20 (vii) evidence that the individual has  
21 visited a known member of a criminal street gang or foreign  
22 terrorist organization [~~member~~], other than a family member of the  
23 individual, while the [~~gang~~] member is confined in or committed to a  
24 penal institution; or

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

1 SECTION 2.12. Articles 67.102(a) and (d), Code of Criminal  
2 Procedure, are amended to read as follows:

3 (a) Notwithstanding Chapter 58, Family Code, criminal  
4 information relating to a child associated with a combination, ~~[or]~~  
5 criminal street gang, or foreign terrorist organization may be  
6 compiled and released under this chapter regardless of the age of  
7 the child.

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

13 SECTION 2.13. Article 67.251, Code of Criminal Procedure,  
14 is amended to read as follows:

15 Art. 67.251. ESTABLISHMENT OF GANG RESOURCE SYSTEM. The  
16 office of the attorney general shall establish an electronic gang  
17 resource system to provide criminal justice agencies and juvenile  
18 justice agencies with information about criminal street gangs and  
19 foreign terrorist organizations in this state.

20 SECTION 2.14. Articles 67.252(a) and (b), Code of Criminal  
21 Procedure, are amended to read as follows:

22 (a) The gang resource system established under Article  
23 67.251 may include the following information with regard to any  
24 gang or foreign terrorist organization:

- 25 (1) gang or organization name;
- 26 (2) gang or organization identifiers, such as colors  
27 used, tattoos, and clothing preferences;

- 1 (3) criminal activities;
- 2 (4) migration trends;
- 3 (5) recruitment activities; and
- 4 (6) a local law enforcement contact.

5 (b) Information in the gang resource system shall be  
6 accessible according to:

- 7 (1) municipality or county; and
- 8 (2) gang or organization name.

9 SECTION 2.15. Article 67.254(a), Code of Criminal  
10 Procedure, is amended to read as follows:

11 (a) On request by the office of the attorney general, a  
12 criminal justice agency or juvenile justice agency shall make a  
13 reasonable attempt to provide gang and foreign terrorist  
14 organization information to the office of the attorney general for  
15 the purpose of maintaining an updated, comprehensive gang resource  
16 system.

17 SECTION 2.16. Article 67.255, Code of Criminal Procedure,  
18 is amended to read as follows:

19 Art. 67.255. USE OF INFORMATION. Information in the gang  
20 resource system may be used in investigating [~~gang-related~~]  
21 relating to a criminal street gang or foreign terrorist  
22 organization. Information from the system may be included in an  
23 affidavit or subpoena or used in connection with any other legal or  
24 judicial proceeding only if the information is corroborated by  
25 information not provided by or maintained in the system.

26 SECTION 2.17. Section 71.01, Penal Code, is amended by  
27 adding Subsection (e) to read as follows:

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

6       SECTION 2.18. Section 71.02(a), Penal Code, is amended to  
7 read as follows:

8       (a) A person commits an offense if, with the intent to  
9 establish, maintain, or participate in a combination or in the  
10 profits of a combination or as a member of a criminal street gang or  
11 foreign terrorist organization, the person commits or conspires to  
12 commit one or more of the following:

13           (1) murder, capital murder, arson, aggravated  
14 robbery, robbery, burglary, theft, aggravated kidnapping,  
15 kidnapping, aggravated assault, aggravated sexual assault, sexual  
16 assault, continuous sexual abuse of young child or disabled  
17 individual, solicitation of a minor, forgery, deadly conduct,  
18 assault punishable as a Class A misdemeanor, burglary of a motor  
19 vehicle, or unauthorized use of a motor vehicle;

20           (2) any gambling offense punishable as a Class A  
21 misdemeanor;

22           (3) promotion of prostitution, aggravated promotion  
23 of prostitution, or compelling prostitution;

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

26           (5) unlawful manufacture, delivery, dispensation, or  
27 distribution of a controlled substance or dangerous drug, or

1 unlawful possession of a controlled substance or dangerous drug:

2           (A) through forgery, fraud, misrepresentation,  
3 or deception; or

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

6           (5-a) causing the unlawful delivery, dispensation, or  
7 distribution of a controlled substance or dangerous drug in  
8 violation of Subtitle B, Title 3, Occupations Code;

9           (6) any unlawful wholesale promotion or possession of  
10 any obscene material or obscene device with the intent to wholesale  
11 promote the same;

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

15           (8) any felony offense under Chapter 32;

16           (9) any offense under Chapter 36;

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

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

19           (12) any offense under Chapter 20A;

20           (13) any offense under Section 37.10;

21           (14) any offense under Section 38.06, 38.07, 38.09, or  
22 38.11;

23           (15) any offense under Section 42.10;

24           (16) any offense under Section 46.06(a)(1) or 46.14;

25           (17) any offense under Section 20.05, ~~or~~ 20.06, or  
26 20.07;

27           (18) any offense under Section 16.02; or

1           (19) any offense classified as a felony under the Tax  
2 Code.

3           SECTION 2.19. The heading to Section 71.022, Penal Code, is  
4 amended to read as follows:

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

7           SECTION 2.20. Sections 71.022(a) and (a-1), Penal Code, are  
8 amended to read as follows:

9           (a) A person commits an offense if the person knowingly  
10 causes, enables, encourages, recruits, or solicits another person  
11 to become a member of a criminal street gang or foreign terrorist  
12 organization which, as a condition of initiation, admission,  
13 membership, or continued membership, requires the commission of any  
14 conduct which constitutes an offense punishable as a Class A  
15 misdemeanor or a felony.

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

20                   (1) threatens the child or a member of the child's  
21 family with imminent bodily injury; or

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

24           SECTION 2.21. Section 71.023, Penal Code, is amended to  
25 read as follows:

26           Sec. 71.023. DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS  
27 OR FOREIGN TERRORIST ORGANIZATIONS. (a) A person commits an



1 offense if the person, as part of the identifiable leadership of a  
2 criminal street gang or foreign terrorist organization, knowingly  
3 finances, directs, or supervises the commission of, or a conspiracy  
4 to commit, one or more of the following offenses by members of a  
5 criminal street gang or foreign terrorist organization:

6 (1) a felony offense that is listed in Article  
7 [42A.054](#)(a), Code of Criminal Procedure;

8 (2) a felony offense for which it is shown that a  
9 deadly weapon, as defined by Section [1.07](#), was used or exhibited  
10 during the commission of the offense or during immediate flight  
11 from the commission of the offense; or

12 (3) an offense that is punishable under Section  
13 [481.112](#)(e) or (f), [481.1121](#)(b)(4), [481.1123](#)(d), (e), or (f),  
14 [481.115](#)(f), or [481.120](#)(b)(6), Health and Safety Code.

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

19 SECTION 2.22. Section [5.005](#), Property Code, is amended to  
20 read as follows:

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

24 SECTION 2.23. Subchapter [A](#), Chapter [5](#), Property Code, is  
25 amended by adding Section 5.0051 to read as follows:

26 Sec. 5.0051. ACQUISITION OF TITLE TO REAL PROPERTY BY  
27 FOREIGN TERRORIST ORGANIZATION. Notwithstanding any other law, a

1 foreign terrorist organization, as defined by Section 71.01, Penal  
2 Code, and identified by the Department of Public Safety  
3 intelligence database described by Article 67.052, Code of Criminal  
4 Procedure, may not purchase or otherwise acquire title to real  
5 property in this state.

6 SECTION 2.24. Chapter 125, Civil Practice and Remedies  
7 Code, as amended by this article, applies only to an action  
8 commenced on or after the effective date of this Act. An action  
9 commenced before the effective date of this Act is governed by the  
10 law as it existed immediately before the effective date of this Act,  
11 and the former law is continued in effect for that purpose.

12 SECTION 2.25. Chapter 71, Penal Code, as amended by this  
13 article, applies only to an offense committed on or after the  
14 effective date of this Act. An offense committed before the  
15 effective date of this Act is governed by the law in effect on the  
16 date the offense was committed, and the former law is continued in  
17 effect for that purpose. For purposes of this section, an offense  
18 was committed before the effective date of this Act if any element  
19 of the offense occurred before that date.

20 SECTION 2.26. Section 5.0051, Property Code, as added by  
21 this article, applies only to the purchase of or acquisition of  
22 title to real property on or after the effective date of this Act.

23 ARTICLE 3. EFFECTIVE DATE

24 SECTION 3.01. This Act takes effect September 1, 2023.