

By: King

S.B. No. 1709

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of the offenses of sedition and
3 engaging in organized criminal activity; increasing criminal
4 penalties.

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

6 SECTION 1. Section 557.001, Government Code, is amended by
7 amending Subsection (a) and adding Subsection (b-1) to read as
8 follows:

9 (a) A person commits an offense if the person knowingly:

10 (1) commits, attempts to commit, or conspires with one
11 or more persons to commit an act intended to overthrow,
12 destabilize, destroy, or alter the constitutional form of
13 government of this state or of any political subdivision of this
14 state by force, ~~or~~ violence, or a threat of force or violence;

15 (2) under circumstances that constitute a clear and
16 present danger to the security of this state or a political
17 subdivision of this state, advocates, advises, or teaches or
18 conspires with one or more persons to advocate, advise, or teach a
19 person to commit or attempt to commit an act described in
20 Subdivision (1); or

21 (3) participates, with knowledge of the nature of the
22 organization, in the management of an organization that engages in
23 or attempts to engage in an act intended to overthrow, destabilize,
24 destroy, or alter the constitutional form of government of this

1 state or of any political subdivision of this state by force or
2 violence.

3 (b-1) Notwithstanding Section 15.02(d), Penal Code, a
4 conspiracy to commit an offense under this section is punishable in
5 the same manner as an offense under this section.

6 SECTION 2. Section 71.02, Penal Code, is amended to read as
7 follows:

8 Sec. 71.02. ENGAGING IN ORGANIZED CRIMINAL ACTIVITY. (a) A
9 person commits an offense if, with the intent to establish,
10 maintain, or participate in a combination or in the profits of a
11 combination or as a member of a criminal street gang or
12 transnational criminal organization, the person commits or
13 conspires to commit one or more of the following:

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

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

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

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

27 (5) unlawful manufacture, delivery, dispensation, or

1 distribution of, or unlawful possession with the intent to deliver
2 a controlled substance or dangerous drug, or unlawful possession of
3 a controlled substance or dangerous drug through forgery, fraud,
4 misrepresentation, or deception;

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

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

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

14 (8) any felony offense under Chapter 32;

15 (9) any offense under Chapter 36;

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

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

18 (12) any offense under Chapter 20A;

19 (13) any offense under Section 37.10;

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

22 (15) any offense under Section 42.10;

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

24 (17) any offense under Section 20.05 or 20.06;

25 (18) any offense under Section 16.02; or

26 (19) any offense classified as a felony under the Tax
27 Code.

1 (b) Except as provided in Subsections (c), ~~[and]~~ (d), and
2 (e), an offense under this section is one category higher than the
3 most serious offense listed in Subsection (a) that was committed,
4 and if the most serious offense is a Class A misdemeanor, the
5 offense is a state jail felony, except that the offense is a felony
6 of the first degree punishable by imprisonment in the Texas
7 Department of Criminal Justice for:

8 (1) life without parole, if the most serious offense
9 is an aggravated sexual assault and if at the time of that offense
10 the defendant is 18 years of age or older and:

11 (A) the victim of the offense is younger than six
12 years of age;

13 (B) the victim of the offense is younger than 14
14 years of age and the actor commits the offense in a manner described
15 by Section 22.021(a)(2)(A); or

16 (C) the victim of the offense is younger than 17
17 years of age and suffered serious bodily injury as a result of the
18 offense;

19 (2) life or for any term of not more than 99 years or
20 less than 30 years if the most serious offense is an offense under
21 Section 20.06 that is punishable under Subsection (g) of that
22 section; or

23 (3) life or for any term of not more than 99 years or
24 less than 15 years if the most serious offense is an offense
25 punishable as a felony of the first degree, other than an offense
26 described by Subdivision (1) or (2).

27 (c) Notwithstanding Section 15.02(d), a conspiracy

1 ~~[Conspiring]~~ to commit an offense under this section is punishable
2 in [is of] the same manner as an offense under this section ~~[degree~~
3 ~~as the most serious offense listed in Subsection (a) that the person~~
4 ~~conspired to commit]~~.

5 (d) At the punishment stage of a trial, the defendant may
6 raise the issue as to whether in voluntary and complete
7 renunciation of the offense he withdrew from the combination before
8 commission of an offense listed in Subsection (a) and made
9 substantial effort to prevent the commission of the offense. If the
10 defendant proves the issue in the affirmative by a preponderance of
11 the evidence the offense is the same category of offense as the most
12 serious offense listed in Subsection (a) that is committed [~~7~~
13 ~~unless the defendant is convicted of conspiring to commit the~~
14 ~~offense, in which event the offense is one category lower than the~~
15 ~~most serious offense that the defendant conspired to commit]~~.

16 (e) An offense that is punishable as a second degree felony
17 or as any lower category of offense under Subsection (b) is one
18 additional category higher than the category listed under
19 Subsection (b) if the person used or exhibited a deadly weapon
20 during the commission of one or more of the offenses listed under
21 Subsection (a) and if an offense is punishable as a Class A
22 misdemeanor under Subsection (b), the offense is a state jail
23 felony.

24 (f) In this section, "transnational criminal organization"
25 means two or more persons with an identifiable leadership who
26 operate internationally and who continuously or regularly
27 associate to engage in corruption, violence, or the commission of

1 other criminal activities.

2 SECTION 3. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect on the date the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 4. This Act takes effect September 1, 2023.