

House Bill 1442
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Article 59.01(2), Code of Criminal Procedure, is amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

- (i) any first or second degree felony under the Penal Code;
- (ii) any felony under Section 15.031(b), 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;
- (iii) any felony under Chapter 43, Penal Code, except as provided by Paragraph (B);
- (iv) any felony under The Securities Act (Title 12, Government Code); or
- (v) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

- (i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);
- (ii) any felony under Chapter 483, Health and Safety Code;
- (iii) a felony under Chapter 151, Finance Code;
- (iv) any felony under Chapter 20A or 34, Penal Code;
- (v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;
- (vi) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves a health care program, as defined by Section 35A.01, Penal Code;
- (vii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;
- (viii) a Class A misdemeanor under Section 306.051, Business & Commerce Code;

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- (ii) any felony under Section 15.031(b), 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;
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- (iv) any felony under The Securities Act (Title 12, Government Code); or
- (v) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

- (i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);
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- (vii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;
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- (ix) any offense under Section 42.10, Penal Code;
 - (x) any offense under Section 46.06(a)(1) or 46.14, Penal Code;
 - (xi) any offense under Chapter 71, Penal Code;
 - (xii) any offense under Section 20.05, 20.06, 20.07, 43.04, or 43.05, Penal Code;
 - (xiii) an offense under Section 326.002, Business & Commerce Code; ~~[or]~~
 - (xiv) a Class A misdemeanor or any felony under Section 545.420, Transportation Code, other than a Class A misdemeanor that is classified as a Class A misdemeanor based solely on conduct constituting a violation of Subsection (e)(2)(B) of that section; or
 - (xv) any offense punishable under Section 42.03(d) or (e), Penal Code;
- (C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), ~~or~~ (xii) of this subdivision, or a crime of violence;
- (D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), ~~or~~ (xii) of this subdivision, or a crime of violence;
- (E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or Chapter 43, Penal Code; or
- (F) used to facilitate or intended to be used to facilitate the commission of an offense under Section 20.05, 20.06, or 20.07 or Chapter 20A, Penal Code.

SECTION 2. Section 42.03, Penal Code, is amended by

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- (ix) any offense under Section 42.10, Penal Code;
 - (x) any offense under Section 46.06(a)(1) or 46.14, Penal Code;
 - (xi) any offense under Chapter 71, Penal Code;
 - (xii) any offense under Section 20.05, 20.06, 20.07, 43.04, or 43.05, Penal Code;
 - (xiii) an offense under Section 326.002, Business & Commerce Code; ~~[or]~~
 - (xiv) ~~[a Class A misdemeanor or]~~ any offense ~~[felony]~~ under Section 545.420, Transportation Code~~[- other than a Class A misdemeanor that is classified as a Class A misdemeanor based solely on conduct constituting a violation of Subsection (e)(2)(B) of that section]; or~~
 - (xv) any offense punishable under Section 42.03(d) or (e), Penal Code;
- (C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), ~~[or]~~ (xii), (xiv), or (xv) of this subdivision, or a crime of violence;
- (D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), ~~[or]~~ (xii), (xiv), or (xv) of this subdivision, or a crime of violence;
- (E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or Chapter 43, Penal Code; or
- (F) used to facilitate or intended to be used to facilitate the commission of an offense under Section 20.05, 20.06, or 20.07 or Chapter 20A, Penal Code.

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adding Subsection (g) to read as follows:

(g) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law, but not both.

SECTION 3. Section 71.02(a), Penal Code, is amended to read as follows:

(a) 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, the person commits or conspires to commit one or more of the following:

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

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

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

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

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in

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- violation of Subtitle B, Title 3, Occupations Code;
- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
 - (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;
 - (8) any felony offense under Chapter 32;
 - (9) any offense under Chapter 36;
 - (10) any offense under Chapter 34, 35, or 35A;
 - (11) any offense under Section 37.11(a);
 - (12) any offense under Chapter 20A;
 - (13) any offense under Section 37.10;
 - (14) any offense under Section 38.06, 38.07, 38.09, or 38.11;
 - (15) any offense under Section 42.10;
 - (16) any offense under Section 46.06(a)(1) or 46.14;
 - (17) any offense under Section 20.05 or 20.06;
 - (18) any offense under Section 16.02; [øf]
 - (19) any offense punishable under Section 42.03(d) or (e);
 - ~~(20) [(19)]~~ any offense classified as a felony under the Tax Code; or
 - ~~(21) any offense under Section 545.420, Transportation Code.~~

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

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SECTION 5. This Act takes effect September 1, 2023.

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