

PENAL CODE

TITLE 11. ORGANIZED CRIME

CHAPTER 71. ORGANIZED CRIME

Sec. 71.01. DEFINITIONS. In this chapter,

(a) "Combination" means three or more persons who collaborate in carrying on criminal activities, although:

(1) participants may not know each other's identity;

(2) membership in the combination may change from time to time; and

(3) participants may stand in a wholesaler-retailer or other arm's-length relationship in illicit distribution operations.

(b) "Conspires to commit" means that a person agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense and that person and one or more of them perform an overt act in pursuance of the agreement. An agreement constituting conspiring to commit may be inferred from the acts of the parties.

(c) "Profits" means property constituting or derived from any proceeds obtained, directly or indirectly, from an offense listed in Section 71.02.

(d) "Criminal street gang" means three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. June 10, 1977. Amended by Acts 1989, 71st Leg., ch. 782, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 555, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, Sec. 23, eff. Sept. 1, 1995.

Sec. 71.02. ENGAGING IN ORGANIZED CRIMINAL ACTIVITY.

(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 children, 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 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; or

(18) any offense classified as a felony under the Tax Code.

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

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

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

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

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

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

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

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether in voluntary and complete renunciation of the offense he withdrew from the combination before commission of an offense listed in Subsection (a) and made substantial effort to prevent the commission of the offense. If the

defendant proves the issue in the affirmative by a preponderance of the evidence the offense is the same category of offense as the most serious offense listed in Subsection (a) that is committed, unless the defendant is convicted of conspiring to commit the offense, in which event the offense is one category lower than the most serious offense that the defendant conspired to commit.

Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. June 10, 1977. Amended by Acts 1981, 67th Leg., p. 2373, ch. 587, Sec. 1 to 3, eff. Sept. 1, 1981; Acts 1989, 71st Leg., ch. 782, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 555, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 761, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, Sec. 24, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 189, Sec. 9, eff. May 21, 1997; Acts 1999, 76th Leg., ch. 685, Sec. 8, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 641, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1162 (H.B. [3376](#)), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1163 (H.B. [126](#)), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 153 (S.B. [2225](#)), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. [2086](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1357 (S.B. [554](#)), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. [934](#)), Sec. 8, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 20.003, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 223 (H.B. [260](#)), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 620 (S.B. [688](#)), Sec. 10, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1200 (S.B. [158](#)), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1200 (S.B. 158), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 16.005, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 21, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1325 (S.B. 549), Sec. 4(b), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 16, eff. September 1, 2015.

Sec. 71.021. VIOLATION OF COURT ORDER ENJOINING ORGANIZED CRIMINAL ACTIVITY. (a) A person commits an offense if the person knowingly violates a temporary or permanent order issued under Section 125.065(a) or (b), Civil Practice and Remedies Code.

(b) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(c) An offense under this section is a Class A misdemeanor. Added by Acts 1995, 74th Leg., ch. 584, Sec. 1, eff. Sept. 1, 1995.

Sec. 71.022. COERCING, INDUCING, OR SOLICITING MEMBERSHIP IN A CRIMINAL STREET GANG. (a) 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 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) A person commits an offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, the person:

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

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

(b) Except as provided by Subsection (c), an offense under this section is a felony of the third degree.

(c) A second or subsequent offense under this section is a felony of the second degree.

(d) In this section:

(1) "Child" means an individual younger than 17 years of age.

(2) "Family" has the meaning assigned by Section [71.003](#), Family Code.

Added by Acts 1999, 76th Leg., ch. 1555, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 435 (H.B. [2187](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 435 (H.B. [2187](#)), Sec. 2, eff. September 1, 2009.

Sec. 71.023. DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS.

(a) A person commits an offense if the person, as part of the identifiable leadership of a criminal street gang, knowingly finances, directs, or supervises the commission of, or a conspiracy to commit, one or more of the following offenses by members of a criminal street gang:

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

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

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

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. [2086](#)), Sec. 3, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1325 (S.B. 549), Sec. 5, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.85, eff. January 1, 2017.

Sec. 71.028. GANG-FREE ZONES. (a) In this section:

(1) "Institution of higher education," "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(2) "Shopping mall" means an enclosed public walkway or hall area that connects retail, service, or professional establishments.

(b) This section applies to an offense listed in Section 71.02(a)(1), (4), or (7), other than burglary, theft, burglary of a motor vehicle, or unauthorized use of a motor vehicle.

(c) Except as provided by Subsection (d), the punishment prescribed for an offense described by Subsection (b) is increased to the punishment prescribed for the next highest category of offense if the actor is 17 years of age or older and it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense at a location that was:

(1) in, on, or within 1,000 feet of any:

(A) real property that is owned, rented, or leased by a school or school board;

(B) premises owned, rented, or leased by an institution of higher education;

(C) premises of a public or private youth center;

or

(D) playground;

(2) in, on, or within 300 feet of any:

(A) shopping mall;

(B) movie theater;

(C) premises of a public swimming pool; or

(D) premises of a video arcade facility; or

(3) on a school bus.

(d) The punishment for an offense described by Subsection (b) may not be increased under this section if the offense is punishable under Section 71.02 as a felony of the first degree. Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 3, eff. September 1, 2009.

Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution of an offense for which punishment is increased under Section 71.028, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of gang-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those zones if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those zones.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the zone is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 71.028; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Evidence.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 3, eff. September 1, 2009.

Sec. 71.03. DEFENSES EXCLUDED. It is no defense to prosecution under Section 71.02 that:

(1) one or more members of the combination are not criminally responsible for the object offense;

(2) one or more members of the combination have been



acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are immune from prosecution;

(3) a person has been charged with, acquitted, or convicted of any offense listed in Subsection (a) of Section 71.02; or

(4) once the initial combination of three or more persons is formed there is a change in the number or identity of persons in the combination as long as two or more persons remain in the combination and are involved in a continuing course of conduct constituting an offense under this chapter.

Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. June 10, 1977. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 71.04. TESTIMONIAL IMMUNITY. (a) A party to an offense under this chapter may be required to furnish evidence or testify about the offense.

(b) No evidence or testimony required to be furnished under the provisions of this section nor any information directly or indirectly derived from such evidence or testimony may be used against the witness in any criminal case, except a prosecution for aggravated perjury or contempt.

Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. June 10, 1977. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 71.05. RENUNCIATION DEFENSE.

(a) It is an affirmative defense to prosecution under Section 71.02 that under circumstances manifesting a voluntary and complete renunciation of the actor's criminal objective, the actor withdrew from the combination before commission of an offense listed in Section 71.02(a) and took further affirmative action that prevented the commission of the offense.

(b) For the purposes of this section and Subsection (d) of Section 71.02, renunciation is not voluntary if it is motivated in whole or in part:

(1) by circumstances not present or apparent at the

inception of the actor's course of conduct that increase the probability of detection or apprehension or that make more difficult the accomplishment of the objective; or

(2) by a decision to postpone the criminal conduct until another time or to transfer the criminal act to another but similar objective or victim.

(c) Evidence that the defendant withdrew from the combination before commission of an offense listed in Section 71.02(a) and made substantial effort to prevent the commission of an offense listed in Section 71.02(a) shall be admissible as mitigation at the hearing on punishment if the actor has been found guilty under Section 71.02, and in the event of a finding of renunciation under this subsection, the punishment shall be one grade lower than that provided under Section 71.02.

Added by Acts 1977, 65th Leg., p. 922, ch. 346, Sec. 1, eff. June 10, 1977. Amended by Acts 1981, 67th Leg., p. 2374, ch. 587, Sec. 4, 5, eff. Sept. 1, 1981; Acts 1993, 73rd Leg., ch. 761, Sec. 4, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1200 (S.B. 158), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1200 (S.B. 158), Sec. 6, eff. September 1, 2011.