

CHAPTER 1325

S.B. No. 549

AN ACT

relating to penalties for engaging in organized criminal activity.

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

SECTION 1. Subsection (a), Section 4, Article 37.07, Code of Criminal Procedure, is amended to read as follows:

(a) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is an offense under Section 71.02, Penal Code, other than an offense punishable as a state jail felony under that section, an offense under Section 71.023, Penal Code, or an offense listed in Section 3g(a)(1), Article 42.12, [of this code] or if the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, [of this code], unless the defendant has been convicted of an offense under Section 21.02, Penal Code, an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section, or a capital felony, the court shall charge the jury in writing as follows:

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages

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1 in misconduct, prison authorities may also take away all or part of
2 any good conduct time earned by the prisoner.

3 "It is also possible that the length of time for which the
4 defendant will be imprisoned might be reduced by the award of
5 parole.

6 "Under the law applicable in this case, if the defendant is
7 sentenced to a term of imprisonment, the defendant [~~he~~] will not
8 become eligible for parole until the actual time served equals
9 one-half of the sentence imposed or 30 years, whichever is less,
10 without consideration of any good conduct time the defendant [~~he~~]
11 may earn. If the defendant is sentenced to a term of less than four
12 years, the defendant [~~he~~] must serve at least two years before the
13 defendant [~~he~~] is eligible for parole. Eligibility for parole does
14 not guarantee that parole will be granted.

15 "It cannot accurately be predicted how the parole law and
16 good conduct time might be applied to this defendant if [~~he is~~]
17 sentenced to a term of imprisonment, because the application of
18 these laws will depend on decisions made by prison and parole
19 authorities.

20 "You may consider the existence of the parole law and good
21 conduct time. However, you are not to consider the extent to which
22 good conduct time may be awarded to or forfeited by this particular
23 defendant. You are not to consider the manner in which the parole
24 law may be applied to this particular defendant."

25 SECTION 2. Subsection (d), Section 508.145, Government
26 Code, is amended to read as follows:

27 (d)(1) An inmate serving a sentence for an offense described

1 by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or
2 (K), Article 42.12, Code of Criminal Procedure, [~~or for~~] an offense
3 for which the judgment contains an affirmative finding under
4 Section 3g(a)(2) of that article, [~~or for~~] an offense under Section
5 20A.03, Penal Code, or an offense under Section 71.02 or 71.023,
6 Penal Code, is not eligible for release on parole until the inmate's
7 actual calendar time served, without consideration of good conduct
8 time, equals one-half of the sentence or 30 calendar years,
9 whichever is less, but in no event is the inmate eligible for
10 release on parole in less than two calendar years.

11 (2) Notwithstanding Subdivision (1), an inmate
12 serving a sentence for an offense described by Section 3g(a)(1)(E),
13 Article 42.12, Code of Criminal Procedure, is not eligible for
14 release on parole if the inmate is serving a sentence for an offense
15 for which punishment was enhanced under Section 12.42(c)(4), Penal
16 Code.

17 SECTION 3. Subsection (a), Section 508.149, Government
18 Code, as amended by Chapters 1 (S.B. 24) and 122 (H.B. 3000), Acts
19 of the 82nd Legislature, Regular Session, 2011, is reenacted and
20 amended to read as follows:

21 (a) An inmate may not be released to mandatory supervision
22 if the inmate is serving a sentence for or has been previously
23 convicted of:

24 (1) an offense for which the judgment contains an
25 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
26 Criminal Procedure;

27 (2) a first degree felony or a second degree felony

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- 1 under Section 19.02, Penal Code;
- 2 (3) a capital felony under Section 19.03, Penal Code;
- 3 (4) a first degree felony or a second degree felony
- 4 under Section 20.04, Penal Code;
- 5 (5) an offense under Section 21.11, Penal Code;
- 6 (6) a felony under Section 22.011, Penal Code;
- 7 (7) a first degree felony or a second degree felony
- 8 under Section 22.02, Penal Code;
- 9 (8) a first degree felony under Section 22.021, Penal
- 10 Code;
- 11 (9) a first degree felony under Section 22.04, Penal
- 12 Code;
- 13 (10) a first degree felony under Section 28.02, Penal
- 14 Code;
- 15 (11) a second degree felony under Section 29.02, Penal
- 16 Code;
- 17 (12) a first degree felony under Section 29.03, Penal
- 18 Code;
- 19 (13) a first degree felony under Section 30.02, Penal
- 20 Code;
- 21 (14) a felony for which the punishment is increased
- 22 under Section 481.134 or Section 481.140, Health and Safety Code;
- 23 (15) an offense under Section 43.25, Penal Code;
- 24 (16) an offense under Section 21.02, Penal Code;
- 25 (17) a first degree felony under Section 15.03, Penal
- 26 Code;
- 27 (18) an offense under Section 43.05, Penal Code; [~~or~~]

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- 1 (19) an offense under Section 20A.02, Penal Code;
- 2 (20) [(18)] an offense under Section 20A.03, Penal
- 3 Code; or
- 4 (21) a first degree felony under Section 71.02 or
- 5 71.023, Penal Code.

6 SECTION 4. (a) This section shall be known as Chelsea's
7 Law.

8 (b) Subsection (b), Section 71.02, Penal Code, is amended to
9 read as follows:

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

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

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

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

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

1 offense; or

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

6 SECTION 5. Section 71.023, Penal Code, is amended to read as
7 follows:

8 Sec. 71.023. DIRECTING ACTIVITIES OF [CERTAIN] CRIMINAL
9 STREET GANGS. (a) A person commits an offense if the person, as
10 part of the identifiable leadership of a criminal street gang,
11 knowingly [~~initiates, organizes, plans,~~] finances, directs,
12 [~~manages,~~] or supervises the commission of, or a conspiracy to
13 commit, one or more of the following offenses by [a criminal street
14 gang or] members of a criminal street gang:

15 (1) a felony offense that is listed in Section
16 3g(a)(1), Article 42.12, Code of Criminal Procedure;

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

21 (3) an offense that is punishable under Section
22 481.112(e), 481.112(f), 481.1121(b)(4), 481.115(f), or
23 481.120(b)(6), Health and Safety Code [~~with the intent to benefit,~~
24 promote, or further the interests of the criminal street gang or to
25 increase the person's standing, position, or status in the criminal
26 street gang].

27 (b) An offense under this section is a felony of the first

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1 degree punishable by imprisonment in the Texas Department of
2 Criminal Justice for life or for any term of not more than 99 years
3 or less than 25 years.

4 ~~[(c) Notwithstanding Section 71.01, in this section,~~
5 ~~"criminal street gang" means:~~

6 ~~[(1) an organization that:~~

7 ~~[(A) has more than 10 members whose names are~~
8 ~~included in an intelligence database under Chapter 61, Code of~~
9 ~~Criminal Procedure,~~

10 ~~[(B) has a hierarchical structure that has been~~
11 ~~documented in an intelligence database under Chapter 61, Code of~~
12 ~~Criminal Procedure,~~

13 ~~[(C) engages in profit-sharing among two or more~~
14 ~~members of the organization, and~~

15 ~~[(D) in one or more regions of this state served~~
16 ~~by different regional councils of government, continuously or~~
17 ~~regularly engages in conduct:~~

18 ~~[(i) that constitutes an offense listed in~~
19 ~~Section 3g(a)(1), Article 42.12, Code of Criminal Procedure,~~

20 ~~[(ii) in which it is alleged that a deadly~~
21 ~~weapon is used or exhibited during the commission of or immediate~~
22 ~~flight from the commission of any felony offense, or~~

23 ~~[(iii) that is punishable as a felony of the~~
24 ~~first or second degree under Chapter 481, Health and Safety Code, or~~

25 ~~[(2) an organization that, in collaboration with an~~
26 ~~organization described by Subdivision (1), engages in conduct or~~
27 ~~commits an offense or conspires to engage in conduct or commit an~~

1 ~~offense described by Subdivision (1)(D).]~~

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

9 SECTION 7. To the extent of any conflict, this Act prevails
10 over another Act of the 83rd Legislature, Regular Session, 2013,
11 relating to nonsubstantive additions to and corrections in enacted
12 codes.

13 SECTION 8. This Act takes effect September 1, 2013.

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David Dewhurst
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 549 passed the Senate on April 24, 2013, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendments on May 25, 2013, by the following vote: Yeas 30, Nays 0.

Patsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 549 passed the House, with amendments, on May 22, 2013, by the following vote: Yeas 146, Nays 2, one present not voting.

Robert Nancy
Chief Clerk of the House

Approved:

14 JUNE '13
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10pm O'CLOCK
JUN 14 2013

[Signature]
Secretary of State