

By: Perry

S.B. No. 1960

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the carrying of weapons by community supervision and
3 corrections department officers, juvenile probation officers, and
4 certain retired law enforcement officers and to criminal liability
5 for taking a weapon from certain of those officers.

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

7 SECTION 1. Article 2.1305, Code of Criminal Procedure, is
8 amended by amending Subsection (a) and adding Subsection (a-1) to
9 read as follows:

10 (a) An establishment serving the public may not prohibit or
11 otherwise restrict a peace officer, a ~~or~~ special investigator, a
12 community supervision and corrections department officer, or a
13 juvenile probation officer described by Section 46.15(a)(1), (3),
14 or (9), Penal Code, as applicable, from carrying on the
15 establishment's premises a weapon that the ~~[peace]~~ officer or
16 ~~[special]~~ investigator is otherwise authorized to carry,
17 regardless of whether the ~~[peace]~~ officer or ~~[special]~~ investigator
18 is engaged in the actual discharge of the officer's or
19 investigator's duties while carrying the weapon.

20 (a-1) An establishment serving the public may not prohibit
21 or otherwise restrict an honorably retired peace officer or other
22 qualified retired law enforcement officer described by Section
23 46.15(a)(5), Penal Code, from carrying on the establishment's
24 premises a weapon that the officer is otherwise authorized to

1 carry.

2 SECTION 2. Article 17.03(b-3)(2), Code of Criminal
3 Procedure, is amended to read as follows:

4 (2) "Offense involving violence" means an offense
5 under the following provisions of the Penal Code:

6 (A) Section 19.02 (murder);

7 (B) Section 19.03 (capital murder);

8 (C) Section 20.03 (kidnapping);

9 (D) Section 20.04 (aggravated kidnapping);

10 (E) Section 20A.02 (trafficking of persons);

11 (F) Section 20A.03 (continuous trafficking of
12 persons);

13 (G) Section 21.02 (continuous sexual abuse of
14 young child or disabled individual);

15 (H) Section 21.11 (indecent with a child);

16 (I) Section 22.01(a)(1) (assault), if the
17 offense is:

18 (i) punishable as a felony of the second
19 degree under Subsection (b-2) of that section; or

20 (ii) punishable as a felony and involved
21 family violence as defined by Section 71.004, Family Code;

22 (J) Section 22.011 (sexual assault);

23 (K) Section 22.02 (aggravated assault);

24 (L) Section 22.021 (aggravated sexual assault);

25 (M) Section 22.04 (injury to a child, elderly
26 individual, or disabled individual);

27 (N) Section 25.072 (repeated violation of

1 certain court orders or conditions of bond in family violence,
2 child abuse or neglect, sexual assault or abuse, indecent assault,
3 stalking, or trafficking case);

4 (O) Section 25.11 (continuous violence against
5 the family);

6 (P) Section 29.03 (aggravated robbery);

7 (Q) Section 38.14 (taking or attempting to take
8 weapon from certain individuals working in public safety [~~peace
9 officer, federal special investigator, employee or official of
10 correctional facility, parole officer, community supervision and
11 corrections department officer, or commissioned security
12 officer~~]);

13 (R) Section 43.04 (aggravated promotion of
14 prostitution), if the defendant is not alleged to have engaged in
15 conduct constituting an offense under Section 43.02(a);

16 (S) Section 43.05 (compelling prostitution); or

17 (T) Section 43.25 (sexual performance by a
18 child).

19 SECTION 3. Section 76.0051, Government Code, is amended to
20 read as follows:

21 Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. An officer is
22 authorized to carry a weapon under this section, regardless of
23 whether the officer is [~~while~~] engaged in the actual discharge of
24 the officer's duties, only if:

25 (1) the officer possesses a certificate of firearms
26 proficiency issued by the Texas Commission on Law Enforcement under
27 Section 1701.257, Occupations Code; and

1 (2) the director of the department agrees to the
2 authorization.

3 SECTION 4. Section 142.006(a), Human Resources Code, is
4 amended to read as follows:

5 (a) A juvenile probation officer may carry a firearm under
6 this section, regardless of whether the officer is carrying the
7 firearm in the course of the officer's official duties, if:

8 (1) the juvenile probation officer possesses a
9 certificate of firearms proficiency issued by the Texas Commission
10 on Law Enforcement under Section 1701.259, Occupations Code;

11 (2) the chief juvenile probation officer of the
12 juvenile probation department that employs the juvenile probation
13 officer authorizes the juvenile probation officer to carry a
14 firearm in the course of the officer's official duties; and

15 (3) the juvenile probation officer has been employed
16 for at least one year by the juvenile probation department
17 described by Subdivision (2).

18 SECTION 5. The heading to Section 38.14, Penal Code, is
19 amended to read as follows:

20 Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM
21 CERTAIN INDIVIDUALS WORKING IN PUBLIC SAFETY [~~PEACE OFFICER,~~
22 ~~FEDERAL SPECIAL INVESTIGATOR, EMPLOYEE OR OFFICIAL OF CORRECTIONAL~~
23 ~~FACILITY, PAROLE OFFICER, COMMUNITY SUPERVISION AND CORRECTIONS~~
24 ~~DEPARTMENT OFFICER, OR COMMISSIONED SECURITY OFFICER~~].

25 SECTION 6. Sections 38.14(b), (c), and (d), Penal Code, are
26 amended to read as follows:

27 (b) A person commits an offense if the person intentionally

1 or knowingly and with force takes or attempts to take from a peace
2 officer, federal special investigator, employee or official of a
3 correctional facility, parole officer, community supervision and
4 corrections department officer, juvenile probation officer, or
5 commissioned security officer the officer's, investigator's,
6 employee's, or official's firearm, nightstick, stun gun, or
7 personal protection chemical dispensing device.

8 (c) The actor is presumed to have known that the peace
9 officer, federal special investigator, employee or official of a
10 correctional facility, parole officer, community supervision and
11 corrections department officer, juvenile probation officer, or
12 commissioned security officer was a peace officer, federal special
13 investigator, employee or official of a correctional facility,
14 parole officer, community supervision and corrections department
15 officer, juvenile probation officer, or commissioned security
16 officer if:

17 (1) the officer, investigator, employee, or official
18 was wearing a distinctive uniform or badge indicating his
19 employment; or

20 (2) the officer, investigator, employee, or official
21 identified himself as a peace officer, federal special
22 investigator, employee or official of a correctional facility,
23 parole officer, community supervision and corrections department
24 officer, juvenile probation officer, or commissioned security
25 officer.

26 (d) It is a defense to prosecution under this section that
27 the defendant took or attempted to take the weapon from a peace

1 officer, federal special investigator, employee or official of a
2 correctional facility, parole officer, community supervision and
3 corrections department officer, juvenile probation officer, or
4 commissioned security officer who was using force against the
5 defendant or another in excess of the amount of force permitted by
6 law.

7 SECTION 7. Section 46.15, Penal Code, is amended by
8 amending Subsection (a) and adding Subsection (c) to read as
9 follows:

10 (a) Sections 46.02 and 46.03 do not apply to:

11 (1) peace officers or special investigators under
12 Article 2.122, Code of Criminal Procedure, and neither section
13 prohibits a peace officer or special investigator from carrying a
14 weapon in this state, including in an establishment [~~in this state~~]
15 serving the public, regardless of whether the peace officer or
16 special investigator is engaged in the actual discharge of the
17 officer's or investigator's duties while carrying the weapon;

18 (2) parole officers, and neither section prohibits an
19 officer from carrying a weapon in this state if the officer is:

20 (A) engaged in the actual discharge of the
21 officer's duties while carrying the weapon; and

22 (B) in compliance with policies and procedures
23 adopted by the Texas Department of Criminal Justice regarding the
24 possession of a weapon by an officer while on duty;

25 (3) community supervision and corrections department
26 officers appointed or employed under Section 76.004, Government
27 Code, and authorized to carry a weapon under Section 76.0051,

1 Government Code, and neither section prohibits the [~~an~~] officer
2 from carrying a weapon in this state, including in an establishment
3 serving the public, regardless of whether [~~if~~] the officer is [~~+~~
4 [~~(A)~~] engaged in the actual discharge of the
5 officer's duties while carrying the weapon [~~+~~ and
6 [~~(B)~~ authorized to carry a weapon under Section
7 ~~76.0051, Government Code~~];

8 (4) an active judicial officer as defined by Section
9 [411.201](#), Government Code, who is licensed to carry a handgun under
10 Subchapter H, Chapter [411](#), Government Code;

11 (5) an honorably retired peace officer or other
12 qualified retired law enforcement officer, as defined by 18 U.S.C.
13 Section 926C, who holds a certificate of proficiency issued under
14 Section [1701.357](#), Occupations Code, and is carrying a photo
15 identification that is issued by a federal, state, or local law
16 enforcement agency, as applicable, and that verifies that the
17 officer is an honorably retired peace officer or other qualified
18 retired law enforcement officer, and neither section prohibits the
19 officer from carrying a weapon in this state, including in an
20 establishment serving the public;

21 (6) the attorney general or a United States attorney,
22 district attorney, criminal district attorney, county attorney, or
23 municipal attorney who is licensed to carry a handgun under
24 Subchapter H, Chapter [411](#), Government Code;

25 (7) an assistant United States attorney, assistant
26 attorney general, assistant district attorney, assistant criminal
27 district attorney, or assistant county attorney who is licensed to

1 carry a handgun under Subchapter H, Chapter 411, Government Code;

2 (8) a bailiff designated by an active judicial officer
3 as defined by Section 411.201, Government Code, who is:

4 (A) licensed to carry a handgun under Subchapter
5 H, Chapter 411, Government Code; and

6 (B) engaged in escorting the judicial officer;

7 (9) a juvenile probation officer who is authorized to
8 carry a firearm under Section 142.006, Human Resources Code, and
9 neither section prohibits the officer from carrying a firearm in
10 this state, including in an establishment serving the public,
11 regardless of whether the officer is carrying the firearm in the
12 course of the officer's official duties; or

13 (10) a person who is volunteer emergency services
14 personnel if the person is:

15 (A) carrying a handgun under the authority of
16 Subchapter H, Chapter 411, Government Code; and

17 (B) engaged in providing emergency services.

18 (c) In this section, "establishment serving the public" has
19 the meaning assigned by Article 2.1305, Code of Criminal Procedure.

20 SECTION 8. Article 2.1305, Code of Criminal Procedure, as
21 amended by this Act, applies only to a cause of action that accrues
22 on or after the effective date of this Act.

23 SECTION 9. Section 76.0051, Government Code, as amended by
24 this Act, and Section 142.006, Human Resources Code, as amended by
25 this Act, apply only to the carrying of a weapon or firearm on or
26 after the effective date of this Act.

27 SECTION 10. Sections 38.14 and 46.15, Penal Code, as

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

8 SECTION 11. This Act takes effect September 1, 2023.