

By: Isett

H.B. No. 957

A BILL TO BE ENTITLED

AN ACT

relating to the punishment of certain assaults committed against employees of primary or secondary schools.

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

SECTION 1. Section 22.01, Penal Code, is amended to read as follows:

Sec. 22.01. ASSAULT. (a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;

(2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or

(3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; ~~or~~

(2) a member of the defendant's family or household, if

1 it is shown on the trial of the offense that the defendant has been
2 previously convicted of an offense against a member of the
3 defendant's family or household under this section; or

4 (3) an employee of a public or private primary or
5 secondary school while the employee is engaged in performing duties
6 within the scope of employment or in retaliation for or on account
7 of the employee's performance of a duty within the scope of
8 employment.

9 (c) An offense under Subsection (a)(2) or (3) is a Class C
10 misdemeanor, except that:

11 (1) an offense under Subsection (a)(2) is a Class A
12 misdemeanor, and an offense under Subsection (a)(3) is a Class B
13 misdemeanor if the offense is committed against an employee of a
14 public or private primary or secondary school while the employee is
15 engaged in performing duties within the scope of employment or in
16 retaliation for or on account of the employee's performance of a
17 duty within the scope of employment; and

18 (2) an offense under Subsection (a)(3) is a Class A
19 misdemeanor if the offense was committed against an elderly
20 individual or disabled individual, as those terms are defined by
21 Section 22.04.

22 (d) For purposes of Subsection (b)(1), the actor is presumed
23 to have known the person assaulted was a public servant if the
24 person was wearing a distinctive uniform or badge indicating the
25 person's employment as a public servant. For the purposes of
26 Subsections (b)(3) and (c)(1), the actor is presumed to have known
27 that the person assaulted was a school employee if the actor was a

1 student enrolled in or the parent or guardian of a student enrolled
2 in the school at which the person assaulted was employed.

3 (e) It is not a defense to prosecution under Subsection
4 (b)(3) or (c)(1) that the offense occurred off school premises or at
5 a time at which school was not in session.

6 (f) [~~(e)~~] In this section:

7 (1) "Family" has the meaning assigned by Section
8 71.003, Family Code.

9 (2) "Household" has the meaning assigned by Section
10 71.005, Family Code.

11 (g) [~~(f)~~] For the purposes of this section, a defendant has
12 been previously convicted of an offense against a member of the
13 defendant's family or a member of the defendant's household under
14 this section if the defendant was adjudged guilty of the offense or
15 entered a plea of guilty or nolo contendere in return for a grant of
16 deferred adjudication, regardless of whether the sentence for the
17 offense was ever imposed or whether the sentence was probated and
18 the defendant was subsequently discharged from community
19 supervision.

20 SECTION 2. (a) The change in law made by this Act applies
21 only to an offense committed on or after the effective date of this
22 Act. For purposes of this section, an offense is committed before
23 the effective date of this Act if any element of the offense occurs
24 before the effective date.

25 (b) An offense committed before the effective date of this
26 Act is covered by the law in effect when the offense was committed,
27 and the former law is continued in effect for that purpose.

1 SECTION 3. This Act takes effect September 1, 2003.