

By: Bohac

H.B. No. 1284

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 with a minimum term of confinement of 10 days and an  
13 offense under Subsection (a)(3) is a Class B misdemeanor with a  
14 minimum term of confinement of 10 days if the offense is committed  
15 against an employee of a public or private primary or secondary  
16 school while the employee is engaged in performing duties within  
17 the scope of employment or in retaliation for or on account of the  
18 employee's performance of a duty within the scope of employment;  
19 and

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

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

1 Subsections (b)(3) and (c)(1), the actor is presumed to have known  
2 that the person assaulted was a school employee if the actor was a  
3 student enrolled in or the parent or guardian of a student enrolled  
4 in the school at which the person assaulted was employed.

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

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

9 (1) "Family" has the meaning assigned by Section  
10 71.003, Family Code.

11 (2) "Household" has the meaning assigned by Section  
12 71.005, Family Code.

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

22 SECTION 2. Section 11, Article 42.12, Code of Criminal  
23 Procedure, is amended by adding Subsection (i) to read as follows:

24 (i) If a judge grants community supervision to a defendant  
25 convicted of an offense for which punishment is increased under  
26 Subsection (b)(3) or (c)(1), Section 22.01, Penal Code, the judge  
27 shall require as a condition of community supervision that the

1 defendant submit to not less than 10 days confinement in county  
2 jail.

3 SECTION 3. (a) The change in law made by this Act applies  
4 only to an offense committed on or after the effective date of this  
5 Act. For purposes of this section, an offense is committed before  
6 the effective date of this Act if any element of the offense occurs  
7 before the effective date.

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

11 SECTION 4. This Act takes effect September 1, 2003.