

By: Bohac

H.B. No. 19

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Section 22.01, Penal Code, is amended by amending Subsections (b), (c), and (d) and adding Subsections (d-1) and (d-2) to read as follows:

(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;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14) [~~Penal Code,~~] or by Section 51.02(13) or (14), Family Code, or an employee

1 of that person:

2 (A) while the person or employee is engaged in
3 performing a service within the scope of the contract, if the actor
4 knows the person or employee is authorized by government to provide
5 the service; or

6 (B) in retaliation for or on account of the
7 person's or employee's performance of a service within the scope of
8 the contract; [~~or~~]

9 (4) a person the actor knows is a security officer
10 while the officer is performing a duty as a security officer; or

11 (5) an employee of a public or private primary or
12 secondary school while the employee is engaged in performing duties
13 within the scope of employment or in retaliation for or on account
14 of the employee's performance of a duty within the scope of
15 employment.

16 (c) An offense under Subsection (a)(2) or (3) is a Class C
17 misdemeanor, except that the offense is:

18 (1) a Class A misdemeanor with a minimum term of
19 confinement of 10 days if the offense is committed under Subsection
20 (a)(2), and a Class B misdemeanor with a minimum term of confinement
21 of 10 days if the offense is committed under Subsection (a)(3),
22 against an employee of a public or private primary or secondary
23 school while the employee is engaged in performing duties within
24 the scope of employment or in retaliation for or on account of the
25 employee's performance of a duty within the scope of employment;

26 (2) a Class A misdemeanor if the offense is committed
27 under Subsection (a)(3) against an elderly individual or disabled

1 individual, as those terms are defined by Section 22.04; or

2 (3) [~~(2)~~] a Class B misdemeanor if the offense is
3 committed by a person who is not a sports participant against a
4 person the actor knows is a sports participant either:

5 (A) while the participant is performing duties or
6 responsibilities in the participant's capacity as a sports
7 participant; or

8 (B) in retaliation for or on account of the
9 participant's performance of a duty or responsibility within the
10 participant's capacity as a sports participant.

11 (d) For purposes of Subsection (b)(1) [~~(b)~~], the actor is
12 presumed to have known the person assaulted was a public servant or
13 a security officer if the person was wearing a distinctive uniform
14 or badge indicating the person's employment as a public servant or
15 status as a security officer. For purposes of Subsections (b)(5)
16 and (c)(1), the actor is presumed to have known that the person
17 assaulted was a school employee if the actor was a student enrolled
18 in or the parent or guardian of a student enrolled in the school at
19 which the person assaulted was employed.

20 (d-1) For the purposes of Subsection (b)(5) or (c)(1), it is
21 irrelevant that the offense occurred off school premises or at a
22 time at which school was not in session.

23 (d-2) The increase in punishment provided by Subsections
24 (b)(5) and (c)(1) does not apply if the actor is a student enrolled
25 in a special education program under Subchapter A, Chapter 29,
26 Education Code.

27 SECTION 2. Section 11, Article 42.12, Code of Criminal

1 Procedure, is amended by adding Subsection (j) to read as follows:

2 (j) If a judge grants community supervision to a defendant
3 convicted of an offense for which punishment is increased under
4 Subsection (b)(5) or (c)(1), Section 22.01, Penal Code, the judge
5 shall require as a condition of community supervision that the
6 defendant submit to not less than 10 days confinement in county
7 jail.

8 SECTION 3. The change in law made by this Act applies only
9 to an offense committed on or after the effective date of this Act.
10 An offense committed before the effective date of this Act is
11 covered by the law in effect when the offense was committed, and the
12 former law is continued in effect for that purpose. For purposes of
13 this section, an offense was committed before the effective date of
14 this Act if any element of the offense was committed before that
15 date.

16 SECTION 4. This Act takes effect September 1, 2006.