

By: Bohac

H.B. No. 527

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(b), Penal Code, as amended by Chapters 294 and 1019, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended 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 member of the defendant's family or household, if it is shown on the trial of the offense that the defendant has been previously convicted of an offense against a member of the defendant's family or household under this section; ~~[or]~~

(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 ~~[or]~~ Section 51.02(13) or (14), Family Code ~~[, or Section 51.02(14), Family Code]~~, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor

1 knows the person or employee is authorized by government to provide
2 the service; or

3 (B) in retaliation for or on account of the
4 person's or employee's performance of a service within the scope of
5 the contract;

6 (4) [~~(3)~~] a person the actor knows is a security
7 officer while the officer is performing a duty as a security
8 officer; or

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

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

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

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

27 (2) a Class A misdemeanor if the offense is committed

1 under Subsection (a)(3) against an elderly individual or disabled
2 individual, as those terms are defined by Section 22.04; or

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

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

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

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

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

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

1 SECTION 3. Section 11, Article 42.12, Code of Criminal
2 Procedure, is amended by adding Subsection (j) to read as follows:

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

9 SECTION 4. The change in law made by this Act applies only
10 to an offense committed on or after the effective date of this Act.
11 An offense committed before the effective date of this Act is
12 covered by the law in effect when the offense was committed, and the
13 former law is continued in effect for that purpose. For purposes of
14 this section, an offense was committed before the effective date of
15 this Act if any element of the offense was committed before that
16 date.

17 SECTION 5. This Act takes effect September 1, 2005.