

By: Menendez

H.B. No. 1095

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the offense of harassment by persons in certain
3 correctional facilities and to creating the offense of harassment
4 of public servant.

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

6 SECTION 1. The heading to Section 22.11, Penal Code, is
7 amended to read as follows:

8 Sec. 22.11. HARASSMENT BY PERSONS IN CERTAIN CORRECTIONAL
9 FACILITIES; HARASSMENT OF PUBLIC SERVANT.

10 SECTION 2. Section 22.11, Penal Code, is amended by
11 amending Subsections (a) and (b) and adding Subsections (b-1) and
12 (e) to read as follows:

13 (a) A person commits an offense if, with the intent to
14 assault, harass, alarm, or annoy, the person:

15 (1) [7] while imprisoned or confined in a correctional
16 or detention facility ~~[and with intent to harass, alarm, or annoy~~
17 ~~another person]~~, causes another ~~[the other]~~ person to contact the
18 blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the
19 actor, any other person, or an animal; or

20 (2) causes another person the actor knows to be a
21 public servant to contact the blood, seminal fluid, vaginal fluid,
22 saliva, urine, or feces of the actor, any other person, or an animal
23 while the public servant is lawfully discharging an official duty
24 or in retaliation or on account of an exercise of the public

1 servant's official power or performance of an official duty.

2 (b) Except as provided by Subsection (b-1), an [An] offense
3 under this section is a felony of the third degree.

4 (b-1) An offense under this section is a felony of the
5 second degree if the actor knows or is aware but consciously
6 disregards a substantial risk that the blood, seminal fluid,
7 vaginal fluid, saliva, urine, or feces used to commit the offense is
8 infected with HIV, hepatitis B, or tuberculosis, except that the
9 offense is a felony of the first degree if, as a result of the
10 offense, a person contracts HIV, hepatitis B, or tuberculosis.

11 (e) For purposes of Subsection (a)(2), the actor is presumed
12 to have known the person was a public servant if the person was
13 wearing a distinctive uniform or badge indicating the person's
14 employment as a public servant.

15 SECTION 3. Article 42.037, Code of Criminal Procedure, is
16 amended by adding Subsection (p) to read as follows:

17 (p) The court shall order a defendant convicted of an
18 offense under Section 22.11, Penal Code, to make restitution to the
19 victim of the offense or the victim's employer in an amount equal to
20 the sum of any expenses incurred by the victim or employer to:

21 (1) test the victim for HIV, hepatitis B, or
22 tuberculosis; or

23 (2) treat the victim for HIV, hepatitis B, or
24 tuberculosis the victim contracts as a result of the offense.

25 SECTION 4. The changes in law made by this Act apply only to
26 an offense committed on or after the effective date of this Act. An
27 offense committed before the effective date of this Act is covered

1 by the law in effect at the time the offense was committed, and the
2 former law is continued in effect for that purpose. For purposes of
3 this section, an offense was committed before the effective date of
4 this Act if any element of the offense was committed before that
5 date.

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