

BILL ANALYSIS

C.S.H.B. 1889
By: Raymond
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law provides that judges may carry a weapon if they are licensed to carry a concealed weapon. However, bailiffs are not afforded the same accommodation.

Essential to the fair and impartial administration of justice and the integrity of our Texas courts is a safe and secure environment that balances security with openness. Too frequently though, judges, employees, and others in the courthouse become the victims of hostile acts, ranging from harassment to murder.

C.S.H.B. 1889 extends the exemption from Sections 46.02 and 46.03 of the Penal Code to bailiffs who are designated by an active judicial officer and who are licensed to carry concealed guns while they are engaged in escorting an active judicial officer.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1889 amends Penal Code Section 46.15(a) to exempt bailiffs from Penal Code Sections 46.02 and 46.03. This exemption only applies to bailiffs who are licensed to carry a concealed handgun under Chapter 411, government Code, who are designated by an active judicial officer as defined by Government Code Section 411.201, and are engaged in escorting the judicial officer.

Penal Code Section 46.035 is also amended by adding Subsection (h-1) which provides that it is an a defense to prosecution under Penal Code Section 46.035, Subsections (b) and (c), that the actor, at the time of the commission of the offense, was either an active judicial officer, as defined by Government Code Section 411.201, or a bailiff designated by the active judicial officer and was engaged in escorting the officer.

The bill also provides that the change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The caption of the substitute removes reference to "other court employees".

The substitute differs from the original in that while the original exempted bailiffs and other court employees designated by an active judicial officer who are licensed to carry a concealed

handgun and who are engaged in escorting the judicial officer, the substitute only exempts bailiffs who meet these requirements.

In addition, the substitute provides that it is a defense to prosecution under Penal Code Section 46.035, Subsections (b) and (c), that the actor, at the time of the commission of the offense, was either an active judicial officer, as defined by Government Code Section 411.201, or a bailiff designated by the active judicial officer and was engaged in escorting the officer. The original provided that it is an exception to the application of Penal Code Section 46.035 Subsections (b) and (c), that the actor, at the time of the commission of the offense, was either an active judicial officer, as defined by Government Code Section 411.201, or a bailiff or other court employee designated by the active judicial officer that was engaged in escorting the officer.