

BILL ANALYSIS

C.S.H.B. 2838
By: King, Susan
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The catalyst for this legislation was the death of a four year old child. She was inside her home when a drive-by shooter emptied multiple rounds at the residence resulting in the young girl's death. The increasing rate of drive-by type behavior has uncovered the need for legislation such as C.S.H.B. 2838. The basis is to define and acknowledge the act of a drive by, in which the actor knowingly discharges a firearm at or in the direction of a habitation, building or vehicle and causes serious bodily injury to any person. The only current penalties for such actions are a third degree felony under the deadly assault statute of the Penal Code, or, if death ensues, murder. The variance in the result of the outcome may result in a lesser penalty for these irresponsible acts.

The purpose of C.S.H.B. 2838 is to add this reckless behavior, which results in serious bodily injury, to the list of crimes under first degree felonies in the section of aggravated assault in the Penal Code. By doing so, these crimes will be identified and given the appropriate punishment. C.S.H.B. 2838 also recognizes the tragedy of the death of Janie Lynn Delapaz by having this act known as the Janie Lynn Delapaz Act.

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. 2838 shall be known as the Janie Lynn Delapaz Act. The bill amends the Penal Code and provides that it is a first degree felony if the actor knowingly discharges a firearm at or in the direction of a habitation, building, or vehicle; is reckless as to whether the habitation, building, or vehicle is occupied; and in discharging the firearm, causes serious bodily injury to any person. Makes application of this Act prospective.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The only change in C.S.H.B. 2838 from H.B. 2838 is that the substitute recognizes the act as the Janie Lynn Delapaz Act.