

By: Talton

H.B. No. 2304

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to taking or attempting to take a weapon from an employee  
3 or official of a correctional facility that is operated by a county.

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

5 SECTION 1. The heading to Section 38.14, Penal Code, is  
6 amended to read as follows:

7 Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE  
8 OFFICER, EMPLOYEE OR OFFICIAL OF CORRECTIONAL FACILITY THAT IS  
9 OPERATED BY A COUNTY, PAROLE OFFICER, OR COMMUNITY SUPERVISION AND  
10 CORRECTIONS DEPARTMENT OFFICER.

11 SECTION 2. Sections 38.14(b), (c), and (d), Penal Code, are  
12 amended to read as follows:

13 (b) A person commits an offense if the person intentionally  
14 or knowingly and with force takes or attempts to take from a peace  
15 officer, employee or official of a correctional facility that is  
16 operated by a county, parole officer, or community supervision and  
17 corrections department officer the officer's, employee's, or  
18 official's firearm, nightstick, stun gun, or personal protection  
19 chemical dispensing device with the intention of harming the  
20 officer, employee, or official or a third person.

21 (c) The actor is presumed to have known that the peace  
22 officer, employee or official of a correctional facility that is  
23 operated by a county, parole officer, or community supervision and  
24 corrections department officer was a peace officer, employee or

1 official of a correctional facility that is operated by a county,  
2 parole officer, or community supervision and corrections  
3 department officer if:

4 (1) the officer, employee, or official was wearing a  
5 distinctive uniform or badge indicating his employment; ~~or~~

6 (2) ~~if~~ the officer, employee, or official identified  
7 himself as a peace officer, employee or official of a correctional  
8 facility that is operated by a county, parole officer, or community  
9 supervision and corrections department officer.

10 (d) It is a defense to prosecution under this section that  
11 the defendant took or attempted to take the weapon from a peace  
12 officer, employee or official of a correctional facility that is  
13 operated by a county, parole officer, or community supervision and  
14 corrections department officer who was using force against the  
15 defendant or another in excess of the amount of force permitted by  
16 law.

17 SECTION 3. The change in law made by this Act applies only  
18 to an offense committed on or after the effective date of this Act.  
19 An offense committed before the effective date of this Act is  
20 governed by the law in effect at the time the offense was committed,  
21 and the former law is continued in effect for that purpose. For the  
22 purposes of this section, an offense was committed before the  
23 effective date of this Act if any element of the offense occurred  
24 before that date.

25 SECTION 4. This Act takes effect September 1, 2007.