

By: Deuell

S.B. No. 109

A BILL TO BE ENTITLED

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AN ACT

relating to the punishment of certain assaults and aggravated 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, Penal Code, is amended by amending Subsections (b) and (d) and adding Subsections (d-1) and (d-2) 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 person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14) [~~Penal~~]

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

3 (A) while the person or employee is engaged in  
4 performing a service within the scope of the contract, if the actor  
5 knows the person or employee is authorized by government to provide  
6 the service; or

7 (B) in retaliation for or on account of the  
8 person's or employee's performance of a service within the scope of  
9 the contract; ~~or~~]

10 (4) a person the actor knows is a security officer  
11 while the officer is performing a duty as a security officer; or

12 (5) a person the actor knows is an employee of a public  
13 or private primary or secondary school while the employee is  
14 engaged in performing duties within the scope of employment or in  
15 retaliation for or on account of the employee's performance of a  
16 duty within the scope of employment.

17 (d) For purposes of Subsections (b)(1) and (4) ~~[Subsection~~  
18 ~~(b)]~~, the actor is presumed to have known the person assaulted was a  
19 public servant or a security officer if the person was wearing a  
20 distinctive uniform or badge indicating the person's employment as  
21 a public servant or status as a security officer. For purposes of  
22 Subsection (b)(5), the actor is presumed to have known that the  
23 person assaulted was a school employee if the actor was a student  
24 enrolled in or the parent or guardian of a student enrolled in the  
25 school at which the person assaulted was employed.

26 (d-1) For the purposes of Subsection (b)(5), it is  
27 irrelevant that the offense occurred off school premises or at a

1 time at which school was not in session.

2 (d-2) The increase in punishment provided by Subsection  
3 (b)(5) does not apply if the actor is a student enrolled in a  
4 special education program under Subchapter A, Chapter 29, Education  
5 Code.

6 SECTION 2. Section 22.02, Penal Code, is amended by  
7 amending Subsections (b) and (c) and adding Subsection (c-1) to  
8 read as follows:

9 (b) An offense under this section is a felony of the second  
10 degree, except that the offense is a felony of the first degree if:

11 (1) the actor uses a deadly weapon during the  
12 commission of the assault and causes serious bodily injury to a  
13 person whose relationship to or association with the defendant is  
14 described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

15 (2) regardless of whether the offense is committed  
16 under Subsection (a)(1) or (a)(2), the offense is committed:

17 (A) by a public servant acting under color of the  
18 servant's office or employment;

19 (B) against a person the actor knows is a public  
20 servant while the public servant is lawfully discharging an  
21 official duty, or in retaliation or on account of an exercise of  
22 official power or performance of an official duty as a public  
23 servant;

24 (C) in retaliation against or on account of the  
25 service of another as a witness, prospective witness, informant, or  
26 person who has reported the occurrence of a crime; [~~or~~]

27 (D) against a person the actor knows is a

1 security officer while the officer is performing a duty as a  
2 security officer; or

3 (E) against a person the actor knows is an  
4 employee of a public or private primary or secondary school while  
5 the employee is engaged in performing duties within the scope of  
6 employment or in retaliation for or on account of the employee's  
7 performance of a duty within the scope of employment.

8 (c) For purposes of Subsections (b)(2)(B) and (D), the [The]  
9 actor is presumed to have known the person assaulted was a public  
10 servant or a security officer if the person was wearing a  
11 distinctive uniform or badge indicating the person's employment as  
12 a public servant or status as a security officer. For purposes of  
13 Subsection (b)(2)(E), the actor is presumed to have known that the  
14 person assaulted was a school employee if the actor was a student  
15 enrolled in or the parent or guardian of a student enrolled in the  
16 school at which the person assaulted was employed.

17 (c-1) For the purposes of Subsection (b)(2)(E), it is  
18 irrelevant that the offense occurred off school premises or at a  
19 time at which school was not in session.

20 SECTION 3. The change in law made by this Act applies only  
21 to an offense committed on or after the effective date of this Act.  
22 An offense committed before the effective date of this Act is  
23 covered by the law in effect when the offense was committed, and the  
24 former law is continued in effect for that purpose. For purposes of  
25 this section, an offense was committed before the effective date of  
26 this Act if any element of the offense was committed before that  
27 date.

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