

By: Deuell

S.B. No. 109

A BILL TO BE ENTITLED

AN ACT

relating to the punishment of certain 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 Code~~] or by Section 51.02(13) or (14), Family Code, or an employee

of that person:

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

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

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

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

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

(d-1) For the purposes of Subsection (b)(5), it is irrelevant that the offense occurred off school premises or at a time at which school was not in session.

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

5        SECTION 2. The change in law made by this Act applies only  
6        to an offense committed on or after the effective date of this Act.  
7        An offense committed before the effective date of this Act is  
8        covered by the law in effect when the offense was committed, and the  
9        former law is continued in effect for that purpose. For purposes of  
10       this section, an offense was committed before the effective date of  
11       this Act if any element of the offense was committed before that  
12       date.

13       SECTION 3. This Act takes effect September 1, 2007.