

1-1 By: Deuell S.B. No. 109  
1-2 (In the Senate - Filed November 14, 2006; January 29, 2007,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 10, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 10, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 109 By: Deuell

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the punishment of certain assaults and aggravated  
1-11 assaults committed against employees of primary and secondary  
1-12 schools.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 22.01, Penal Code, is amended by  
1-15 amending Subsections (b) and (d) and adding Subsections (d-1) and  
1-16 (d-2) to read as follows:

1-17 (b) An offense under Subsection (a)(1) is a Class A  
1-18 misdemeanor, except that the offense is a felony of the third degree  
1-19 if the offense is committed against:

1-20 (1) a person the actor knows is a public servant while  
1-21 the public servant is lawfully discharging an official duty, or in  
1-22 retaliation or on account of an exercise of official power or  
1-23 performance of an official duty as a public servant;

1-24 (2) a person whose relationship to or association with  
1-25 the defendant is described by Section 71.0021(b), 71.003, or  
1-26 71.005, Family Code, if it is shown on the trial of the offense that  
1-27 the defendant has been previously convicted of an offense under  
1-28 this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against  
1-29 a person whose relationship to or association with the defendant is  
1-30 described by Section 71.0021(b), 71.003, or 71.005, Family Code;

1-31 (3) a person who contracts with government to perform  
1-32 a service in a facility as defined by Section 1.07(a)(14) [~~Penal~~  
1-33 ~~Code,~~] or by Section 51.02(13) or (14), Family Code, or an employee  
1-34 of that person:

1-35 (A) while the person or employee is engaged in  
1-36 performing a service within the scope of the contract, if the actor  
1-37 knows the person or employee is authorized by government to provide  
1-38 the service; or

1-39 (B) in retaliation for or on account of the  
1-40 person's or employee's performance of a service within the scope of  
1-41 the contract; [~~or~~]

1-42 (4) a person the actor knows is a security officer  
1-43 while the officer is performing a duty as a security officer; or

1-44 (5) a person the actor knows is an employee of a public  
1-45 or private primary or secondary school while the employee is  
1-46 engaged in performing duties within the scope of employment or in  
1-47 retaliation for or on account of the employee's performance of a  
1-48 duty within the scope of employment.

1-49 (d) For purposes of Subsections (b)(1) and (4) [~~Subsection~~  
1-50 ~~(b)~~], the actor is presumed to have known the person assaulted was a  
1-51 public servant or a security officer if the person was wearing a  
1-52 distinctive uniform or badge indicating the person's employment as  
1-53 a public servant or status as a security officer. For purposes of  
1-54 Subsection (b)(5), the actor is presumed to have known that the  
1-55 person assaulted was a school employee if the actor was a student  
1-56 enrolled in or the parent or guardian of a student enrolled in the  
1-57 school at which the person assaulted was employed.

1-58 (d-1) For the purposes of Subsection (b)(5), it is  
1-59 irrelevant that the offense occurred off school premises or at a  
1-60 time at which school was not in session.

1-61 (d-2) The increase in punishment provided by Subsection  
1-62 (b)(5) does not apply if the actor is a student enrolled in a  
1-63 special education program under Subchapter A, Chapter 29, Education

2-1 Code.

2-2 SECTION 2. Section 22.02, Penal Code, is amended by  
2-3 amending Subsections (b) and (c) and adding Subsection (c-1) to  
2-4 read as follows:

2-5 (b) An offense under this section is a felony of the second  
2-6 degree, except that the offense is a felony of the first degree if:

2-7 (1) the actor uses a deadly weapon during the  
2-8 commission of the assault and causes serious bodily injury to a  
2-9 person whose relationship to or association with the defendant is  
2-10 described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

2-11 (2) regardless of whether the offense is committed  
2-12 under Subsection (a)(1) or (a)(2), the offense is committed:

2-13 (A) by a public servant acting under color of the  
2-14 servant's office or employment;

2-15 (B) against a person the actor knows is a public  
2-16 servant while the public servant is lawfully discharging an  
2-17 official duty, or in retaliation or on account of an exercise of  
2-18 official power or performance of an official duty as a public  
2-19 servant;

2-20 (C) in retaliation against or on account of the  
2-21 service of another as a witness, prospective witness, informant, or  
2-22 person who has reported the occurrence of a crime; ~~or~~

2-23 (D) against a person the actor knows is a  
2-24 security officer while the officer is performing a duty as a  
2-25 security officer; or

2-26 (E) against a person the actor knows is an  
2-27 employee of a public or private primary or secondary school while  
2-28 the employee is engaged in performing duties within the scope of  
2-29 employment or in retaliation for or on account of the employee's  
2-30 performance of a duty within the scope of employment.

2-31 (c) For purposes of Subsections (b)(2)(B) and (D), the [The]  
2-32 actor is presumed to have known the person assaulted was a public  
2-33 servant or a security officer if the person was wearing a  
2-34 distinctive uniform or badge indicating the person's employment as  
2-35 a public servant or status as a security officer. For purposes of  
2-36 Subsection (b)(2)(E), the actor is presumed to have known that the  
2-37 person assaulted was a school employee if the actor was a student  
2-38 enrolled in or the parent or guardian of a student enrolled in the  
2-39 school at which the person assaulted was employed.

2-40 (c-1) For the purposes of Subsection (b)(2)(E), it is  
2-41 irrelevant that the offense occurred off school premises or at a  
2-42 time at which school was not in session.

2-43 SECTION 3. The change in law made by this Act applies only  
2-44 to an offense committed on or after the effective date of this Act.  
2-45 An offense committed before the effective date of this Act is  
2-46 covered by the law in effect when the offense was committed, and the  
2-47 former law is continued in effect for that purpose. For purposes of  
2-48 this section, an offense was committed before the effective date of  
2-49 this Act if any element of the offense was committed before that  
2-50 date.

2-51 SECTION 4. This Act takes effect September 1, 2007.

2-52 \* \* \* \* \*