

SENATE AMENDMENTS

2nd Printing

By: Bonnen

H.B. No. 495

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.

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

SECTION 1. Sections 22.01(b) and (d), Penal Code, are amended 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 Section 51.02(13) or (14), Family Code, or an employee of that person:

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

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

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

10 (5) a person the actor knows is emergency services
11 personnel while the person is providing emergency services.

12 (d) For purposes of Subsection (b), the actor is presumed to
13 have known the person assaulted was a public servant, [~~or~~] a
14 security officer, or emergency services personnel if the person was
15 wearing a distinctive uniform or badge indicating the person's
16 employment as a public servant or status as a security officer or
17 emergency services personnel.

18 SECTION 2. Section 22.01(e), Penal Code, is amended by
19 adding Subdivision (1) to read as follows:

20 (1) "Emergency services personnel" includes
21 firefighters, police officers and other peace officers, emergency
22 medical services personnel as defined by Section 773.003, Health
23 and Safety Code, and other individuals who, in the course and scope
24 of employment or as a volunteer, provide services for the benefit of
25 the general public during emergency situations.

26 SECTION 3. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect when the offense was committed, and
3 the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense was
6 committed before that date.

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

ADOPTED

MAY 15 2007

Atty Gen
Secretary of the Senate

By: *Deliger*

H.B. No. 495

Substitute the following for H.B. No. 495:

By: *John Whitani*

C.S. H.B. No. 495

A BILL TO BE ENTITLED

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3 personnel; imposing a criminal penalty.

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6 amended to read as follows:

7 (b) An offense under Subsection (a)(1) is a Class A
8 misdemeanor, except that the offense is a felony of the third degree
9 if the offense is committed against:

10 (1) a person the actor knows is a public servant while
11 the public servant is lawfully discharging an official duty, or in
12 retaliation or on account of an exercise of official power or
13 performance of an official duty as a public servant;

14 (2) a person whose relationship to or association with
15 the defendant is described by Section 71.0021(b), 71.003, or
16 71.005, Family Code, if it is shown on the trial of the offense that
17 the defendant has been previously convicted of an offense under
18 this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against
19 a person whose relationship to or association with the defendant is
20 described by Section 71.0021(b), 71.003, or 71.005, Family Code;

21 (3) a person who contracts with government to perform
22 a service in a facility as defined by Section 1.07(a)(14), Penal
23 Code, or Section 51.02(13) or (14), Family Code, or an employee of
24 that person:

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

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

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

10 (5) a person the actor knows is emergency services
11 personnel while the person is providing emergency services.

12 (d) For purposes of Subsection (b), the actor is presumed to
13 have known the person assaulted was a public servant, [~~or~~] a
14 security officer, or emergency services personnel if the person was
15 wearing a distinctive uniform or badge indicating the person's
16 employment as a public servant or status as a security officer or
17 emergency services personnel.

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20 (1) "Emergency services personnel" includes
21 firefighters, emergency medical services personnel as defined by
22 Section 773.003, Health and Safety Code, and other individuals who,
23 in the course and scope of employment or as a volunteer, provide
24 services for the benefit of the general public during emergency
25 situations.

26 SECTION 3. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 governed by the law in effect when the offense was committed, and
3 the former law is continued in effect for that purpose. For
4 purposes of this section, an offense was committed before the
5 effective date of this Act if any element of the offense was
6 committed before that date.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 4, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB495 by Bonnen (Relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by making the offense of assault punishable as a felony of the third degree if the offense is committed against emergency services personnel while the person is providing emergency services. For this analysis it is assumed the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, LM, ES, GG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 27, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB495** by Bonnen (Relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by making the offense of assault punishable as a felony of the third degree if the offense is committed against emergency services personnel while the person is providing emergency services. For this analysis it is assumed that the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

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Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 14, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB495 by Bonnen (Relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by making the offense of assault punishable as a felony of the third degree if the offense is committed against emergency services personnel while the person is providing emergency services. For this analysis it is assumed that the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 5, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB495 by Bonnen (Relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by making the offense of assault punishable as a felony of the third degree if the offense is committed against emergency services personnel while the person is providing emergency services. For this analysis it is assumed that the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 4, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB495 by Bonnen (Relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.), **Committee Report 2nd House, Substituted**

The bill would amend the Penal Code by making the offense of assault punishable as a felony of the third degree if the offense is committed against emergency services personnel while the person is providing emergency services.

A third degree felony is punishable by imprisonment in the institutional division for any term of not more than ten years or less than two years, or, in addition to imprisonment, a fine not to exceed \$10,000.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. When an offense is changed from a misdemeanor to a felony, there is a transfer of the burden of confinement of convicted offenders from the counties to the State. In the case of this bill, the increased workload and demand for resources would probably not be substantial.

Source Agencies:

LBB Staff: JOB, LM, GG

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

April 27, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB495 by Bonnen (Relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.), **As Engrossed**

The bill would amend the Penal Code by making the offense of assault punishable as a felony of the third degree if the offense is committed against emergency services personnel while the person is providing emergency services.

A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year, a fine not to exceed \$4,000, or both fine and imprisonment.

A third degree felony is punishable by imprisonment in the institutional division for any term of not more than ten years or less than two years, or, in addition to imprisonment, a fine not to exceed \$10,000.

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Source Agencies:

LBB Staff: JOB, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

March 15, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB495 by Bonnen (Relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.), **Committee Report 1st House, Substituted**

The bill would amend the Penal Code by making the offense of assault punishable as a felony of the third degree if the offense is committed against emergency services personnel while the person is providing emergency services.

A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year, a fine not to exceed \$4,000, or both fine and imprisonment.

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