

SENATE AMENDMENTS

2nd Printing

By: Paxton, Lucio III, et al.

H.B. No. 2300

A BILL TO BE ENTITLED

AN ACT

relating to the carrying of weapons by certain judges and justices and district and county attorneys.

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

SECTION 1. Section 411.179, Government Code, is amended by adding Subsection (c) to read as follows:

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a judge, justice, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4) or (6), Penal Code, to indicate on the license the license holder's status as a judge, justice, district attorney, criminal district attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

SECTION 2. Sections 411.181(a) and (b), Government Code, are amended to read as follows:

(a) If a person who is a current license holder moves from the address stated on the license, ~~[or]~~ if the name of the person is changed by marriage or otherwise, or if the person's status as a judge, justice, district attorney, prosecuting attorney, or assistant prosecuting attorney becomes inapplicable for purposes of Section 411.179(c), the person shall, not later than the 30th day after the date of the address, ~~[or]~~ name, or status change, notify

1 the department and provide the department with the number of the
2 person's license and, as applicable, the person's:

3 (1) former and new addresses; or

4 (2) former and new names.

5 (b) If the name of the license holder is changed by marriage
6 or otherwise, or if the person's status becomes inapplicable as
7 described by Subsection (a), the person shall apply for a duplicate
8 license. The duplicate license must reflect the person's current
9 name and status.

10 SECTION 3. Subchapter H, Chapter 411, Government Code, is
11 amended by adding Section 411.1882 to read as follows:

12 Sec. 411.1882. EXEMPTION FROM HANDGUN PROFICIENCY
13 CERTIFICATE REQUIREMENT FOR CERTAIN PERSONS. (a) Notwithstanding
14 any other provision of this subchapter, a person may not be required
15 to submit to the department a handgun proficiency certificate to
16 obtain or renew a concealed handgun license issued under this
17 subchapter if:

18 (1) the person is currently serving in this state as:

19 (A) a judge or justice of a federal court;

20 (B) an active judicial officer, as defined by
21 Section 411.201, Government Code; or

22 (C) a district attorney, assistant district
23 attorney, criminal district attorney, assistant criminal district
24 attorney, county attorney, or assistant county attorney; and

25 (2) a handgun proficiency instructor approved by the
26 Commission on Law Enforcement Officer Standards and Education for
27 purposes of Section 1702.1675, Occupations Code, makes a sworn

1 statement indicating that the person demonstrated proficiency to
2 the instructor in the use of handguns during the 12-month period
3 preceding the date of the person's application to the department
4 and designating the types of handguns with which the person
5 demonstrated proficiency.

6 (b) The director by rule shall adopt a procedure by which a
7 person who is exempt under Subsection (a) from the handgun
8 proficiency certificate requirement may submit a form
9 demonstrating the person's qualification for an exemption under
10 that subsection. The form must provide sufficient information to
11 allow the department to verify whether the person qualifies for the
12 exemption.

13 (c) A license issued under this section automatically
14 expires on the six-month anniversary of the date the person's
15 status under Subsection (a) becomes inapplicable. A license that
16 expires under this subsection may be renewed under Section 411.185.

17 SECTION 4. Section 411.201(a)(1), Government Code, is
18 amended to read as follows:

19 (1) "Active judicial officer" means:

20 (A) a person serving as a judge or justice of the
21 supreme court, the court of criminal appeals, a court of appeals, a
22 district court, a criminal district court, a constitutional county
23 court, a statutory county court, a justice court, or a municipal
24 court; or

25 (B) a federal judge who is a resident of this
26 state.

27 SECTION 5. Section 46.035, Penal Code, is amended by adding

Subsection (h-1) to read as follows:

(h-1) It is a defense to prosecution under Subsections (b)(1), (2), and (4)-(6), and (c) that at the time of the commission of the offense, the actor was:

(1) a judge or justice of a federal court;

(2) an active judicial officer, as defined by Section 411.201, Government Code; or

(3) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney.

SECTION 6. Section 46.15(a), Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

1 (3) community supervision and corrections department
2 officers appointed or employed under Section 76.004, Government
3 Code, and neither section prohibits an officer from carrying a
4 weapon in this state if the officer is:

5 (A) engaged in the actual discharge of the
6 officer's duties while carrying the weapon; and

7 (B) authorized to carry a weapon under Section
8 76.0051, Government Code;

9 (4) a judge or justice of a federal court, the supreme
10 court, the court of criminal appeals, a court of appeals, a district
11 court, a criminal district court, a constitutional county court, a
12 statutory county court, a justice court, or a municipal court who is
13 licensed to carry a concealed handgun under Subchapter H, Chapter
14 411, Government Code;

15 (5) an honorably retired peace officer or federal
16 criminal investigator who holds a certificate of proficiency issued
17 under Section 1701.357, Occupations Code, and is carrying a photo
18 identification that:

19 (A) verifies that the officer honorably retired
20 after not less than 15 years of service as a commissioned officer;
21 and

22 (B) is issued by a state or local law enforcement
23 agency; ~~or~~

24 (6) a district attorney, criminal district attorney,
25 or county attorney who is licensed to carry a concealed handgun
26 under Subchapter H, Chapter 411, Government Code; or

27 (7) an assistant district attorney, assistant

1 criminal district attorney, or assistant county attorney who is
2 licensed to carry a concealed handgun under Subchapter H, Chapter
3 411, Government Code, and:

4 (A) is a felony prosecutor; or

5 (B) has at least two years' experience as a
6 prosecutor.

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

15 SECTION 8. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2007.

Secretary of the Senate

COMMITTEE AMENDMENT NO. 1

BY: 


1 Amend H.B. No. 2300 (house engrossed version) as follows:

2 (1) In SECTION 6 of the bill, in added Subdivision (7),
3 Subsection (a), Section 46.15, Penal Code (page 6, line 3), strike
4 ", and:" and substitute ".".

5 (2) In SECTION 6 of the bill, strike added Paragraphs (A)
6 and (B), Subdivision (7), Subsection (a), Section 46.15, Penal Code
7 (page 6, lines 4 through 6).

ADOPTED

MAY 23 2007


Secretary of the Senate

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 21, 2007

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

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

IN RE: HB2300 by Paxton (Relating to the carrying of weapons by certain judges and justices and district and county attorneys.), **Committee Report 2nd House, As Amended**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2300, Committee Report 2nd House, As Amended: a negative impact of (\$2,420) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|--------------------|---|
| 2008 | (\$1,210) |
| 2009 | (\$1,210) |
| 2010 | (\$1,210) |
| 2011 | (\$1,210) |
| 2012 | (\$1,210) |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1 |
|--------------------|---|
| 2008 | (\$1,210) |
| 2009 | (\$1,210) |
| 2010 | (\$1,210) |
| 2011 | (\$1,210) |
| 2012 | (\$1,210) |

Fiscal Analysis

This bill would amend the Government Code and Penal Code requiring the Texas Department of Public Safety (DPS) to establish a procedure for indicating a license holder's status as a judge, justice, prosecuting attorney, or assistant prosecuting attorney on a concealed handgun license. The bill states policies and procedures for an exemption from the handgun proficiency certificate requirement for certain persons. The bill also states certain sections under Penal Code, Section 46 do not apply to: peace officers or special investigators, parole officers, community supervision and corrections department officers, judges justices of a federal court, honorably retired peace officers or federal criminal investigators, district attorneys, criminal district attorneys or county attorneys, assistant district attorneys, assistant criminal district attorneys or assistant county attorneys who are licensed to carry a concealed handgun, and a felony prosecutors who have at least two years of experience. This bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, this bill would take effect on September 1, 2007.

Methodology

This version of this bill exempts certain judges and prosecuting attorneys from handgun proficiency certificate requirements. DPS estimates approximately 153 active judicial officers and 89 felony prosecuting attorneys who currently have a concealed handgun license would be exempt from certificate fees. DPS states there is no data available at this time on the number of county prosecutors who hold a concealed handgun license. Therefore, DPS estimates a revenue loss of \$1,210 per year $(153+89) \times (\$5)$ from these proficiency certificates from fiscal year 2008 through 2012.

DPS reports a one-time technology cost of \$117,100 to cover programming changes to the Concealed Handgun License System. It is assumed that these costs can be absorbed within the agency's current appropriations. The Department of Criminal Justice anticipates no significant fiscal impact on the agency.

Technology

DPS reports a one-time technology cost of \$117,100 to cover programming changes to the Concealed Handgun License System. It is assumed that these costs can be absorbed within the agency's current appropriations.

Local Government Impact

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

Source Agencies: 405 Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, LG, LM, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

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

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

IN RE: HB2300 by Paxton (Relating to the carrying of weapons by certain judges and justices and district and county attorneys.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2300, As Engrossed: a negative impact of (\$2,420) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

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Methodology

This version of this bill exempts certain judges and prosecuting attorneys from handgun proficiency certificate requirements. DPS estimates approximately 153 active judicial officers and 89 felony prosecuting attorneys who currently have a concealed handgun license would be exempt from certificate fees. DPS states there is no data available at this time on the number of county prosecutors who hold a concealed handgun license. Therefore, DPS estimates a revenue loss of \$1,210 per year $(153+89) \times (\$5)$ from these proficiency certificates from fiscal year 2008 through 2012.

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Local Government Impact

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Source Agencies: 405 Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, LG, LM, KJG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 23, 2007

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

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

IN RE: HB2300 by Paxton (Relating to the carrying of weapons by certain judges and justices and district and county attorneys.), **Committee Report 1st House, Substituted**

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| No significant fiscal implication to the State is anticipated. |
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This bill would amend the Government Code and Penal Code requiring the Texas Department of Public Safety (DPS) to establish a procedure for indicating a license holder's status as a judge, justice, prosecuting attorney, or assistant prosecuting attorney on a concealed handgun license. The bill also states certain sections under Penal Code, Section 46 do not apply to peace officers or special investigators, parole officers, community supervision and corrections department officers, judges justices of a federal court, and honorably retired peace officers or federal criminal investigators. DPS reports a one-time technology cost of \$117,100 to cover programming changes to the Concealed Handgun License System. It is assumed that these costs can be absorbed within the agency's current appropriations. The Department of Criminal Justice anticipates no significant fiscal impact on the agency.

This bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, this bill would take effect on September 1, 2007.

Local Government Impact

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

Source Agencies: 405 Department of Public Safety, 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG, LG, LM, KJG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 15, 2007

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

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

IN RE: HB2300 by Paxton (Relating to the carrying of weapons by certain judges and justices and district and county attorneys.), **As Introduced**

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| No significant fiscal implication to the State is anticipated. |
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This bill would amend the Government Code requiring the Texas Department of Public Safety (DPS) to establish a procedure for indicating a license holder's status as a judge, justice, district attorney, criminal district attorney, or county attorney on a concealed handgun license. DPS reports a one-time technology cost of \$117,100 to cover programming changes to the Concealed Handgun License System. It is assumed that these costs can be absorbed within the agency's current appropriations.

This bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, this bill would take effect on September 1, 2007.

Local Government Impact

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

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, ES, GG, LG, LM, KJG

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 21, 2007

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

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

IN RE: HB2300 by Paxton (Relating to the carrying of weapons by certain judges and justices and district and county attorneys.), **Committee Report 2nd House, As Amended**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

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

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

IN RE: HB2300 by Paxton (Relating to the carrying of weapons by certain judges and justices and district and county attorneys.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

