

BILL ANALYSIS

C.S.H.B. 2873
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, it is a Class B misdemeanor offense for a person to evade arrest or detention and a state jail felony if the person uses a vehicle in the commission of the offense. There are no enhanced penalties for repeat offenders, and a person may find it advantageous to flee and commit this Class B misdemeanor rather than face punishment for the alleged offense. Current law makes it a third degree felony for a person to escape from custody when under arrest for, charged with, or convicted of a crime punishable as a felony, but no similar provision exists relating to evading arrest.

C.S.H.B. 2873 makes it a Class A misdemeanor offense for a person to evade arrest or detention and enhances the penalty for the offense to a state jail felony if the actor has been previously convicted of evading arrest. The bill creates an offense against a person who evades arrest or detention by an officer for a felony offense and sets forth the penalties for the offense.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2873 amends the Penal Code to increase from a Class B misdemeanor to a Class A misdemeanor the penalty for the offense of evading arrest or detention and to enhance the penalty for a subsequent conviction for the offense to a state jail felony.

C.S.H.B. 2873 creates the offense of evading felony arrest or detention for a person who intentionally flees from a peace officer and knows that the person from whom the actor is fleeing is a peace officer, that the peace officer is attempting lawfully to arrest or detain the actor as a suspect in the commission of an offense, and that the offense the actor is suspected of committing is punishable as a felony. The bill makes the offense a state jail felony if the offense the actor is suspected of committing is a state jail felony; a felony of the third degree if the offense the actor is suspected of committing is a felony other than a state jail felony; or a second-degree felony if another suffers death as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2873 differs from the original by increasing the penalty for the offense of evading arrest or detention from a Class B misdemeanor to a Class A misdemeanor. The substitute, in the provision assessing a penalty for the offense of evading felony arrest or detention, assesses

different penalties based on the degree of offense the actor is suspected of committing before flight, whereas the original makes the offense a third degree felony except when a death is caused as a direct result of the attempted apprehension of an actor while in flight.