

By: Hunter

H.B. No. 2873

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the punishment prescribed for the offense of evading
3 arrest or detention and to creating the offense of evading felony
4 arrest or detention.

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

6 SECTION 1. Section 38.04(b), Penal Code, is amended to read
7 as follows:

8 (b) An offense under this section is a Class B misdemeanor,
9 except that the offense is:

10 (1) a state jail felony if:

11 (A) the actor has been previously convicted under
12 this section; or

13 (B) the actor uses a vehicle while the actor is in
14 flight and the actor has not been previously convicted under this
15 section;

16 (2) a felony of the third degree if:

17 (A) the actor uses a vehicle while the actor is in
18 flight and the actor has been previously convicted under this
19 section; or

20 (B) another suffers serious bodily injury as a
21 direct result of an attempt by the officer from whom the actor is
22 fleeing to apprehend the actor while the actor is in flight; or

23 (3) a felony of the second degree if another suffers
24 death as a direct result of an attempt by the officer from whom the

1 actor is fleeing to apprehend the actor while the actor is in
2 flight.

3 SECTION 2. Chapter 38, Penal Code, is amended by adding
4 Section 38.041 to read as follows:

5 Sec. 38.041. EVADING FELONY ARREST OR DETENTION. (a) A
6 person commits an offense if the person intentionally flees from a
7 peace officer and the person knows:

8 (1) the person from whom the actor is fleeing is a
9 peace officer;

10 (2) the peace officer is attempting lawfully to arrest
11 or detain the actor as a suspect in the commission of an offense;
12 and

13 (3) the offense the actor is suspected of committing
14 is punishable as a felony.

15 (b) An offense under this section is a felony of the third
16 degree, except that the offense is a felony of the second degree if
17 another suffers death as a direct result of an attempt by the
18 officer from whom the actor is fleeing to apprehend the actor while
19 the actor is in flight.

20 SECTION 3. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 covered by the law in effect when the offense was committed, and the
24 former law is continued in effect for that purpose. For purposes of
25 this section, an offense was committed before the effective date of
26 this Act if any element of the offense was committed before that
27 date.

1 SECTION 4. This Act takes effect September 1, 2009.