

By: West

S.B. No. 228

A BILL TO BE ENTITLED

AN ACT

relating to an offense committed against a homeless person because of bias or prejudice.

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

SECTION 1. Articles 42.014(a) and (c), Code of Criminal Procedure, are amended to read as follows:

(a) In the trial of an offense under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed or intentionally selected property damaged or affected as a result of the offense because of the defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, ~~or~~ sexual preference, or homelessness.

(c) In this article:

(1) "Homelessness":

(A) means a condition under which an individual:

(i) lacks a fixed, regular, and adequate nighttime residence; or

(ii) has a primary nighttime residence that

1 is:

2 (a) a supervised publicly or  
3 privately operated shelter designed to provide temporary living  
4 accommodations, including welfare hotels, congregate shelters, and  
5 transitional housing for the mentally ill;

6 (b) an institution that provides a  
7 temporary residence for individuals intended to be  
8 institutionalized; or

9 (c) a public or private place not  
10 designed for, or ordinarily used as, a regular sleeping  
11 accommodation for human beings; and

12 (B) does not include a condition under which an  
13 individual is imprisoned or otherwise detained in a correctional  
14 facility.

15 (2) "Sexual [~~,"sexual~~ preference" has the following  
16 meaning only: a preference for heterosexuality, homosexuality, or  
17 bisexuality.

18 SECTION 2. The change in law made by this Act applies only  
19 to an offense committed on or after September 1, 2009. An offense  
20 committed before September 1, 2009, is governed by the law in effect  
21 when the offense was committed, and the former law is continued in  
22 effect for that purpose. For purposes of this section, an offense  
23 was committed before September 1, 2009, if any element of the  
24 offense occurred before that date.

25 SECTION 3. This Act takes effect September 1, 2009.