By: Patrick, Lucio Whitmire

S.B. No. 1176

A BILL TO BE ENTITLED 1 AN ACT 2 relating to the punishment prescribed for the offense of evading 3 arrest or detention. Δ BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Subsection (b), Section 38.04, Penal Code, is 5 6 amended to read as follows: 7 (b) An offense under this section is a Class А [<del>B</del>] 8 misdemeanor, except that the offense is: 9 (1) a state jail felony if: 10 (A) the actor has been previously convicted under 11 this section; or 12 (B) the actor uses a vehicle while the actor is in 13 flight and the actor has not been previously convicted under this 14 section; 15 (2) a felony of the third degree if: (A) the actor uses a vehicle while the actor is in 16 17 flight and the actor has been previously convicted under this section; or 18 19 (B) another suffers serious bodily injury as a direct result of an attempt by the officer from whom the actor is 20 21 fleeing to apprehend the actor while the actor is in flight; or

(3) a felony of the second degree 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

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1 flight.

2 SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 3 An offense committed before the effective date of this Act is 4 5 covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of 6 7 this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that 8 date. 9

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

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1 COMMITTEE AMENDMENT NO. 1 2 Amend SB 1176 as follows: Strike all below the enacting clause and replace with the 3 4 following: 5 SECTION 1. This Act may be cited as the Amy Lynn Donovan 6 Act. 7 SECTION 2. Section 38.04(b), Penal Code, is amended to read as follows: 8 9 (b) An offense under this section is a Class A [<del>B</del>] misdemeanor, except that the offense is: 10 11 (1) a state jail felony if: (A) the actor has been previously convicted under 12 13 this section; or the actor uses a vehicle while the actor is in 14 (B) 15 flight and the actor has not been previously convicted under this 16 section; 17 (2) a felony of the third degree if: 18 (A) the actor uses a vehicle while the actor is in flight and the actor has been previously convicted under this 19 20 section; or (B) another suffers serious bodily injury as a 21 22 direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight; or 23 a felony of the second degree if another suffers 24 (3) 25 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 26 27 flight.

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SECTION 3. The change in law made by this Act applies only 1 to an offense committed on or after the effective date of this Act. 2 An offense committed before the effective date of this Act is 3 covered by the law in effect when the offense was committed, and the 4 5 former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of 6 7 this Act if any element of the offense was committed before that date. 8

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

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