

By: Deuell

S.B. No. 1401

A BILL TO BE ENTITLED

AN ACT

relating to taking or attempting to take a weapon from an employee or official of a correctional facility that is operated by a county or municipality.

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

SECTION 1. The heading to Section 38.14, Penal Code, is amended to read as follows:

Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE OFFICER, EMPLOYEE OR OFFICIAL OF CERTAIN CORRECTIONAL FACILITIES, PAROLE OFFICER, OR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICER.

SECTION 2. Sections 38.14(b), (c), (d), and (e), Penal Code, are amended to read as follows:

(b) A person commits an offense if the person intentionally or knowingly and with force takes or attempts to take from a peace officer, employee or official of a correctional facility that is operated by a county or municipality, parole officer, or community supervision and corrections department officer the officer's, employee's, or official's firearm, nightstick, stun gun, or personal protection chemical dispensing device with the intention of harming the officer, employee, or official or a third person.

(c) The actor is presumed to have known that the peace officer, employee or official of a correctional facility that is operated by a county or municipality, parole officer, or community

1 supervision and corrections department officer was a peace officer,  
2 employee or official of a correctional facility that is operated by  
3 a county or municipality, parole officer, or community supervision  
4 and corrections department officer if:

5 (1) the officer, employee, or official was wearing a  
6 distinctive uniform or badge indicating his employment; ~~or~~ or

7 (2) ~~if~~ the officer, employee, or official identified  
8 himself as a peace officer, employee or official of a correctional  
9 facility that is operated by a county or municipality, parole  
10 officer, or community supervision and corrections department  
11 officer.

12 (d) It is a defense to prosecution under this section that  
13 the defendant took or attempted to take the weapon from a peace  
14 officer, employee or official of a correctional facility that is  
15 operated by a county or municipality, parole officer, or community  
16 supervision and corrections department officer who was using force  
17 against the defendant or another in excess of the amount of force  
18 permitted by law.

19 (e) An offense under this section is:

20 (1) a felony of the third degree, if the defendant took  
21 a weapon described by Subsection (b) from an officer, employee, or  
22 official described by that subsection; ~~Subsection (b)~~ and

23 (2) ~~is~~ a state jail felony, if the defendant  
24 attempted to take a ~~the~~ weapon described by Subsection (b) from an  
25 ~~the~~ officer, employee, or official described by that subsection.

26 SECTION 3. The change in law made by this Act applies only  
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is  
2 governed by the law in effect at the time the offense was committed,  
3 and the former law is continued in effect for that purpose. For  
4 purposes of this section, an offense was committed before the  
5 effective date of this Act if any element of the offense occurred  
6 before that date.

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