

BILL ANALYSIS

Senate Research Center
82R22718 MAW-F

H.B. 1856
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of H.B. 1856 is to provide a better level of protection to citizens who have witnessed and reported crimes.

Under current law, the intimidation or coercion of a witness is a state jail felony. As such, there is little to deter a defendant accused of capital murder or a first-degree or second-degree felony offense from intimidating a witness who can implicate him in the offense.

Witnesses of violent crimes are already hesitant to come forward to tell the police what they know. This concern is increased when the crime involves gang violence or when the accused is released on bond.

H.B. 1856 creates a punishment range for tampering with a witness that corresponds to the most serious offense that is the basis of the intimidation. In non-criminal witness tampering cases (e.g., divorce proceedings, probate proceedings, et cetera), H.B. 1856 increases the offense to a third-degree felony. This punishment scheme creates a more effective deterrent for the offender and allows the state to better protect witnesses to criminal offenses.

H.B. 1856 amends current law relating to the prosecution of and punishment for the offense of tampering with a witness.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.05, Penal Code, by amending Subsection (d) and adding Subsections (e) and (f), as follows:

(d) Provides that an offense under this section is a felony of the third degree, rather than a state jail felony, except that if the official proceeding is part of the prosecution of a criminal case, an offense under this section is the same category of offense as the most serious offense charged in that criminal case.

(e) Provides that, notwithstanding Subsection (d), if the most serious offense charged is a capital felony, an offense under this section is a felony of the first degree.

(f) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.