

BILL ANALYSIS

S.B. 496
By: Fraser
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Penal Code states that evading arrest by use of a watercraft carries a maximum penalty of a Class A Misdemeanor, while evading arrest through use of a motor vehicle is a state jail felony offense.

In the last two years the Texas Parks and Wildlife Department reported 17 instances of evading arrest through use of a watercraft within the state's waterways. There is concern among law enforcement that differing penalties for similar crimes have created a perception of an acceptable risk for offenders considering evading arrest. The reality is that the risks posed to law enforcement, as well as the public, are no less lethal when a criminal offender chooses to run from law enforcement through use of a watercraft, rather than through the use of a motor vehicle.

As proposed, S.B. 496 amends current law relating to the punishment for the offense of evading arrest or detention.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Sections 38.04(b) and (c), Penal Code, as follows:

(b) Provides that an offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the actor has been previously convicted under this section, or the actor uses a vehicle or watercraft while the actor is in flight and the actor has not been previously convicted under this section;

(2) a felony of the third degree if the actor uses a vehicle or watercraft while the actor is in flight and the actor has been previously convicted under this section, or another suffers serious bodily injury 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 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 flight.

(c) Defines "watercraft." Makes nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

EFFECTIVE DATE

September 1, 2011.

