

By: Lozano

H.B. No. 3423

A BILL TO BE ENTITLED

AN ACT

relating to certain criminal offenses committed in relation to a federal special investigator; providing criminal penalties.

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

SECTION 1. Section 1.07(a), Penal Code, is amended by adding Subdivision (46-b) to read as follows:

(46-b) "Federal special investigator" means a person described by Article 2.122, Code of Criminal Procedure.

SECTION 2. The heading to Section 37.08, Penal Code, is amended to read as follows:

Sec. 37.08. FALSE REPORT TO PEACE OFFICER, FEDERAL SPECIAL INVESTIGATOR, OR LAW ENFORCEMENT EMPLOYEE.

SECTION 3. Section 37.08(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with intent to deceive, he knowingly makes a false statement that is material to a criminal investigation and makes the statement to:

(1) a peace officer or federal special investigator conducting the investigation; or

(2) any employee of a law enforcement agency that is authorized by the agency to conduct the investigation and that the actor knows is conducting the investigation.

SECTION 4. Sections 38.04(a) and (b), Penal Code, are amended to read as follows:

1 (a) A person commits an offense if he intentionally flees
2 from a person he knows is a peace officer or federal special
3 investigator attempting lawfully to arrest or detain him.

4 (b) An offense under this section is a Class A misdemeanor,
5 except that the offense is:

6 (1) a state jail felony if:

7 (A) the actor has been previously convicted under
8 this section; or

9 (B) the actor uses a vehicle while the actor is in
10 flight and the actor has not been previously convicted under this
11 section;

12 (2) a felony of the third degree if:

13 (A) the actor uses a vehicle while the actor is in
14 flight and the actor has been previously convicted under this
15 section; or

16 (B) another suffers serious bodily injury as a
17 direct result of an attempt by the officer or investigator from whom
18 the actor is fleeing to apprehend the actor while the actor is in
19 flight; or

20 (3) a felony of the second degree if another suffers
21 death as a direct result of an attempt by the officer or
22 investigator from whom the actor is fleeing to apprehend the actor
23 while the actor is in flight.

24 SECTION 5. The heading to Section 38.14, Penal Code, is
25 amended to read as follows:

26 Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE
27 OFFICER, FEDERAL SPECIAL INVESTIGATOR, EMPLOYEE OR OFFICIAL OF

1 CORRECTIONAL FACILITY, PAROLE OFFICER, COMMUNITY SUPERVISION AND
2 CORRECTIONS DEPARTMENT OFFICER, OR COMMISSIONED SECURITY OFFICER.

3 SECTION 6. Sections 38.14(b), (c), (d), and (e), Penal
4 Code, are amended to read as follows:

5 (b) A person commits an offense if the person intentionally
6 or knowingly and with force takes or attempts to take from a peace
7 officer, federal special investigator, employee or official of a
8 correctional facility, parole officer, community supervision and
9 corrections department officer, or commissioned security officer
10 the officer's, investigator's, employee's, or official's firearm,
11 nightstick, stun gun, or personal protection chemical dispensing
12 device with the intention of harming the officer, investigator,
13 employee, or official or a third person.

14 (c) The actor is presumed to have known that the peace
15 officer, federal special investigator, employee or official of a
16 correctional facility, parole officer, community supervision and
17 corrections department officer, or commissioned security officer
18 was a peace officer, federal special investigator, employee or
19 official of a correctional facility, parole officer, community
20 supervision and corrections department officer, or commissioned
21 security officer if:

22 (1) the officer, investigator, employee, or official
23 was wearing a distinctive uniform or badge indicating his
24 employment; or

25 (2) the officer, investigator, employee, or official
26 identified himself as a peace officer, federal special
27 investigator, employee or official of a correctional facility,

1 parole officer, community supervision and corrections department
2 officer, or commissioned security officer.

3 (d) It is a defense to prosecution under this section that
4 the defendant took or attempted to take the weapon from a peace
5 officer, federal special investigator, employee or official of a
6 correctional facility, parole officer, community supervision and
7 corrections department officer, or commissioned security officer
8 who was using force against the defendant or another in excess of
9 the amount of force permitted by law.

10 (e) An offense under this section is:

11 (1) a felony of the third degree, if the defendant took
12 a weapon described by Subsection (b) from an officer, investigator,
13 employee, or official described by that subsection; and

14 (2) a state jail felony, if the defendant attempted to
15 take a weapon described by Subsection (b) from an officer,
16 investigator, employee, or official described by that subsection.

17 SECTION 7. This Act takes effect September 1, 2011.