

1-1 By: Lozano (Senate Sponsor - Hinojosa) H.B. No. 3423
1-2 (In the Senate - Received from the House May 13, 2011;
1-3 May 13, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 21, 2011, reported
1-5 favorably by the following vote: Yeas 6, Nays 0; May 21, 2011, sent
1-6 to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to certain criminal offenses committed in relation to a
1-10 federal special investigator; providing criminal penalties.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 1.07(a), Penal Code, is amended by
1-13 adding Subdivision (46-b) to read as follows:

1-14 (46-b) "Federal special investigator" means a person
1-15 described by Article 2.122, Code of Criminal Procedure.

1-16 SECTION 2. The heading to Section 37.08, Penal Code, is
1-17 amended to read as follows:

1-18 Sec. 37.08. FALSE REPORT TO PEACE OFFICER, FEDERAL SPECIAL
1-19 INVESTIGATOR, OR LAW ENFORCEMENT EMPLOYEE.

1-20 SECTION 3. Section 37.08(a), Penal Code, is amended to read
1-21 as follows:

1-22 (a) A person commits an offense if, with intent to deceive,
1-23 he knowingly makes a false statement that is material to a criminal
1-24 investigation and makes the statement to:

1-25 (1) a peace officer or federal special investigator
1-26 conducting the investigation; or

1-27 (2) any employee of a law enforcement agency that is
1-28 authorized by the agency to conduct the investigation and that the
1-29 actor knows is conducting the investigation.

1-30 SECTION 4. Sections 38.04(a) and (b), Penal Code, are
1-31 amended to read as follows:

1-32 (a) A person commits an offense if he intentionally flees
1-33 from a person he knows is a peace officer or federal special
1-34 investigator attempting lawfully to arrest or detain him.

1-35 (b) An offense under this section is a Class A misdemeanor,
1-36 except that the offense is:

1-37 (1) a state jail felony if:

1-38 (A) the actor has been previously convicted under
1-39 this section; or

1-40 (B) the actor uses a vehicle while the actor is in
1-41 flight and the actor has not been previously convicted under this
1-42 section;

1-43 (2) a felony of the third degree if:

1-44 (A) the actor uses a vehicle while the actor is in
1-45 flight and the actor has been previously convicted under this
1-46 section; or

1-47 (B) another suffers serious bodily injury as a
1-48 direct result of an attempt by the officer or investigator from whom
1-49 the actor is fleeing to apprehend the actor while the actor is in
1-50 flight; or

1-51 (3) a felony of the second degree if another suffers
1-52 death as a direct result of an attempt by the officer or
1-53 investigator from whom the actor is fleeing to apprehend the actor
1-54 while the actor is in flight.

1-55 SECTION 5. The heading to Section 38.14, Penal Code, is
1-56 amended to read as follows:

1-57 Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE
1-58 OFFICER, FEDERAL SPECIAL INVESTIGATOR, EMPLOYEE OR OFFICIAL OF
1-59 CORRECTIONAL FACILITY, PAROLE OFFICER, COMMUNITY SUPERVISION AND
1-60 CORRECTIONS DEPARTMENT OFFICER, OR COMMISSIONED SECURITY OFFICER.

1-61 SECTION 6. Sections 38.14(b), (c), (d), and (e), Penal
1-62 Code, are amended to read as follows:

1-63 (b) A person commits an offense if the person intentionally
1-64 or knowingly and with force takes or attempts to take from a peace

2-1 officer, federal special investigator, employee or official of a
2-2 correctional facility, parole officer, community supervision and
2-3 corrections department officer, or commissioned security officer
2-4 the officer's, investigator's, employee's, or official's firearm,
2-5 nightstick, stun gun, or personal protection chemical dispensing
2-6 device with the intention of harming the officer, investigator,
2-7 employee, or official or a third person.

2-8 (c) The actor is presumed to have known that the peace
2-9 officer, federal special investigator, employee or official of a
2-10 correctional facility, parole officer, community supervision and
2-11 corrections department officer, or commissioned security officer
2-12 was a peace officer, federal special investigator, employee or
2-13 official of a correctional facility, parole officer, community
2-14 supervision and corrections department officer, or commissioned
2-15 security officer if:

2-16 (1) the officer, investigator, employee, or official
2-17 was wearing a distinctive uniform or badge indicating his
2-18 employment; or

2-19 (2) the officer, investigator, employee, or official
2-20 identified himself as a peace officer, federal special
2-21 investigator, employee or official of a correctional facility,
2-22 parole officer, community supervision and corrections department
2-23 officer, or commissioned security officer.

2-24 (d) It is a defense to prosecution under this section that
2-25 the defendant took or attempted to take the weapon from a peace
2-26 officer, federal special investigator, employee or official of a
2-27 correctional facility, parole officer, community supervision and
2-28 corrections department officer, or commissioned security officer
2-29 who was using force against the defendant or another in excess of
2-30 the amount of force permitted by law.

2-31 (e) An offense under this section is:

2-32 (1) a felony of the third degree, if the defendant took
2-33 a weapon described by Subsection (b) from an officer, investigator,
2-34 employee, or official described by that subsection; and

2-35 (2) a state jail felony, if the defendant attempted to
2-36 take a weapon described by Subsection (b) from an officer,
2-37 investigator, employee, or official described by that subsection.

2-38 SECTION 7. This Act takes effect September 1, 2011.

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