

BILL ANALYSIS

C.S.H.B. 705
By: Howard
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported that violent attacks on nurses and other emergency medical personnel are increasing nationwide. Research from a national emergency nurses association shows that the emergency services environment is one of the most dangerous work settings in health care for nurses because of potential violence from patients and visitors and that approximately 25 percent of surveyed emergency department nurses had experienced physical violence numerous times over the past few years. Current Texas law enhances the penalty for assault from a Class A misdemeanor to a third degree felony if committed against emergency services personnel while providing emergency services. However, this law does not include hospital emergency room personnel, who must file charges, provide depositions, and go through other related processes if assaulted. C.S.H.B. 705 seeks to extend the protections regarding assault granted to emergency services personnel to emergency room personnel while providing emergency services.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 705 amends the Penal Code to expand the definition of "emergency services personnel," for purposes of statutory provisions regarding the offense of assault, to include emergency room personnel.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 705 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 22.01, Penal Code, is amended by amending Subsection (b) and adding Subsection (b-2) to read as follows:
(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer; [Ø]

(5) a person the actor knows is emergency services personnel while the person is providing emergency services; or

(6) a person the actor knows is emergency room personnel while the person is providing emergency services.

(b-2) Notwithstanding Subsection (b)(6), an offense under Subsection (a)(1) committed against a person described by Subsection (b)(6) is a Class A misdemeanor if:

(1) the actor is a patient; and

(2) the emergency room personnel has not received training in de-escalation and crisis intervention techniques to facilitate interaction with patients, including patients

with mental illness or intellectual disabilities, that meets minimum standards established by the Department of State Health Services.

SECTION 2. Section 22.01(e), Penal Code, is amended by amending Subdivision (1) and adding Subdivision (2) to read as follows:

(1) "Emergency room personnel" means a person in a hospital emergency department who, in the course and scope of employment or as a volunteer, provides services for the benefit of the general public during emergency situations.

(2) "Emergency services personnel" includes firefighters, emergency medical services personnel as defined by Section 773.003, Health and Safety Code, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 1. Section 22.01(e)(1), Penal Code, is amended to read as follows:

(1) "Emergency services personnel" includes firefighters, emergency medical services personnel as defined by Section 773.003, Health and Safety Code, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

No equivalent provision.

SECTION 2. Same as introduced version.