

BILL ANALYSIS

Senate Research Center
83R12027 GCB-D

S.B. 892
By: Carona
Criminal Justice
4/5/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State and federal prosecutors sometimes try high-profile and even dangerous cases. Consequently, they can be targets for retaliation and may need means to protect themselves.

Local prosecutors are afforded certain protections under Texas law. Sections 46.035(b) and (c) of the Penal Code prohibit concealed handgun license holders from carrying in certain places, such as a church, hospital, or correctional facility. However, it is a defense to prosecution if an active judicial officer, as defined by Section 411.201 of the Government Code, bailiff, or local prosecutor such as county and district attorney, carry a licensed handgun in an unlawful manner on an otherwise prohibited premise. Additionally, Section 46.15 of the Penal Code states that restrictions relating to the unlawful carry of a weapon (Section 46.02, Penal Code) and carry on prohibited premises (Section 46.03, Penal Code), are not applicable to active judicial officers, bailiffs, and certain local prosecutors. These parties may also establish handgun proficiency from a Texas Commission on Law Enforcement Officer Standards and Education-approved (TCLEOSE) instructor.

S.B. 892 provides state and federal prosecutors with the same protections relating to the carrying of a weapon that are currently afforded to local prosecutors. S.B. 892 adds the attorney general, assistant attorney general, United States attorney, assistant United States attorney, and special assistant United States attorney to the list of those with a defense to prosecution to carry licensed handguns in certain prohibited premises. S.B. 892 also provides that laws pertaining to the unlawful carry of a weapon and carry of a weapon on a prohibited premises that do not apply to local prosecutors are also not applicable to state and federal prosecutors. Lastly, S.B. 892 allows state and federal prosecutors the same opportunity as local prosecutors to receive handgun proficiency training from a TCLEOSE-approved instructor.

As proposed, S.B. 892 amends current law relating to the application of certain concealed handgun license laws to the attorney general and to assistant attorneys general, United States attorneys, assistant United States attorneys, and special assistant United States attorneys, and to the authority of those attorneys to carry certain weapons.

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 411.1882(a), Government Code, to add the attorney general or an assistant attorney general, United States attorney, assistant United States attorney, and special assistant United States attorney to a list of certain people authorized to establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675 (Training Programs), Occupations Code, a sworn statement that:

(1) indicates that the person, during the 12-month period preceding the date of the person's application to the Department of Public Safety of the State of Texas, demonstrated to the instructor proficiency in the use of handguns; and

(2) designates the categories of handguns with respect to which the person demonstrated proficiency.

SECTION 2. Reenacts and amends Section 46.035(h-1), Penal Code, as added by Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(h-1) Provides that it is a defense to prosecution under Subsections (b) (relating to it being an offense for a license holder to intentionally, knowingly, or recklessly carry a handgun on certain premises) and (c) (relating to it being an offense for a license holder to intentionally, knowingly, or recklessly carry a handgun at a meeting of any governmental entity) that the actor, at the time of the commission of the offense, was the attorney general or an assistant attorney general, United States attorney, assistant United States attorney, or special assistant United States attorney, in addition to certain other actors. Makes nonsubstantive changes.

SECTION 3. Amends Section 46.15(a), Penal Code, to provide that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to a judge or justice of a federal court, the attorney general, a United States attorney, an assistant attorney general, assistant United States attorney, or special assistant United States attorney, in addition to certain other individuals.

SECTION 4. Makes application of Sections 46.035(h-1) and 46.15(a), Penal Code, as amended by this Act prospective.

SECTION 5. Effective date: September 1, 2013.