

By: Watson
(Herrero)

S.B. No. 1798

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of obstruction or retaliation; providing penalties.

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

SECTION 1. Section 36.06, Penal Code, is amended to read as follows:

Sec. 36.06. OBSTRUCTION OR RETALIATION. (a) A person commits an offense if the person [~~he~~] intentionally or knowingly harms or threatens to harm another by an unlawful act:

(1) in retaliation for or on account of the service or status of another as a:

(A) public servant, witness, prospective witness, or informant; or

(B) person who has reported or who the actor knows intends to report the occurrence of a crime; or

(2) to prevent or delay the service of another as a:

(A) public servant, witness, prospective witness, or informant; or

(B) person who has reported or who the actor knows intends to report the occurrence of a crime.

(a-1) A person commits an offense if the person posts the residence address or telephone number of an individual the actor knows is a public servant or a member of a public servant's family or household on a publicly accessible website with the intent to

1 cause harm or a threat of harm to the individual or a member of the
2 individual's family or household in retaliation for or on account
3 of the service or status of the individual as a public servant.

4 (b) In this section:

5 (1) "Honorably retired peace officer" means a peace
6 officer who:

7 (A) did not retire in lieu of any disciplinary
8 action;

9 (B) was eligible to retire from a law enforcement
10 agency or was ineligible to retire only as a result of an injury
11 received in the course of the officer's employment with the agency;
12 and

13 (C) is entitled to receive a pension or annuity
14 for service as a law enforcement officer or is not entitled to
15 receive a pension or annuity only because the law enforcement
16 agency that employed the officer does not offer a pension or annuity
17 to its employees.

18 (2) "Informant" means a person who has communicated
19 information to the government in connection with any governmental
20 function.

21 (3) "Public servant" has the meaning assigned by
22 Section 1.07, except that the term also includes an honorably
23 retired peace officer.

24 (c) An offense under this section is a felony of the third
25 degree, except that the offense is a felony of the second degree if:

26 (1) [unless] the victim of the offense was harmed or
27 threatened because of the victim's service or status as a juror; or

1 (2) the actor's conduct is described by Subsection
2 (a-1) and results in the bodily injury of a public servant or a
3 member of a public servant's family or household~~[, in which event~~
4 ~~the offense is a felony of the second degree]~~.

5 (d) For purposes of Subsection (a-1), it is prima facie
6 evidence of the intent to cause harm or a threat of harm to an
7 individual the person knows is a public servant or a member of a
8 public servant's family or household if the actor:

9 (1) receives a written demand from the individual to
10 not disclose the address or telephone number for reasons of safety;
11 and

12 (2) either:

13 (A) fails to remove the address or telephone
14 number from the publicly accessible website within a period of 48
15 hours after receiving the demand; or

16 (B) reposts the address or telephone number on
17 the same or a different publicly accessible website, or makes the
18 information publicly available through another medium, within a
19 period of four years after receiving the demand, regardless of
20 whether the individual is no longer a public servant.

21 SECTION 2. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect on the date the offense was committed,
25 and the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 3. This Act takes effect September 1, 2013.