

By: Zedler

H.B. No. 1758

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of obstruction or retaliation; creating a criminal offense.

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

SECTION 1. Article 38.49(e), Code of Criminal Procedure, is amended to read as follows:

(e) A conviction for an offense under Section 36.05 or 36.06(a) [~~36.06~~], Penal Code, creates a presumption of forfeiture by wrongdoing under this article.

SECTION 2. 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

1 knows intends to report the occurrence of a crime.

2 (a-1) A person commits an offense if the person posts on a  
3 publicly accessible website the residence address or telephone  
4 number of an individual the actor knows is a public servant or a  
5 member of a public servant's family or household with the intent to  
6 cause harm or a threat of harm to the individual or a member of the  
7 individual's family or household in retaliation for or on account  
8 of the service or status of the individual as a public servant.

9 (b) In this section:

10 (1) "Honorably retired peace officer" means a peace  
11 officer who:

12 (A) did not retire in lieu of any disciplinary  
13 action;

14 (B) was eligible to retire from a law enforcement  
15 agency or was ineligible to retire only as a result of an injury  
16 received in the course of the officer's employment with the agency;  
17 and

18 (C) is entitled to receive a pension or annuity  
19 for service as a law enforcement officer or is not entitled to  
20 receive a pension or annuity only because the law enforcement  
21 agency that employed the officer does not offer a pension or annuity  
22 to its employees.

23 (2) "Informant" means a person who has communicated  
24 information to the government in connection with any governmental  
25 function.

26 (3) "Public servant" has the meaning assigned by  
27 Section 1.07, except that the term also includes an honorably

1 retired peace officer.

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

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

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

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

14 (1) receives a written demand from the individual to  
15 not disclose the address or telephone number for reasons of safety;  
16 and

17 (2) either:

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

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

26 SECTION 3. The change in law made by this Act applies only  
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is  
2 governed by the law in effect on the date the offense was committed,  
3 and the former law is continued in effect for that purpose. For  
4 purposes of this section, an offense was committed before the  
5 effective date of this Act if any element of the offense occurred  
6 before that date.

7 SECTION 4. This Act takes effect September 1, 2015.