

BILL ANALYSIS

C.S.H.B. 2908
By: Hunter
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerned observers call for greater protection for peace officers from offenses committed because of bias or prejudice against law enforcement. C.S.H.B. 2908 seeks to address this issue by enhancing criminal penalties for certain crimes committed against peace officers.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2908 amends the Code of Criminal Procedure to include bias or prejudice against a group identified by status as a peace officer among the types of bias or prejudice for which a judge in a trial of an offense against the person or in the trial of certain offenses against property must make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if at the guilt or innocence phase of the trial of the defendant the trier of fact determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed, or intentionally selected the person's property that was damaged or affected as a result of the offense, because of that bias or prejudice.

C.S.H.B. 2908 amends the Penal Code to enhance the penalty for unlawful restraint from a Class A misdemeanor to a second degree felony if the actor restrains an individual the actor knows is a peace officer while the officer 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 peace officer. The bill enhances the penalty for an actor who commits assault by intentionally, knowingly, or recklessly causing bodily injury to another person from a Class A misdemeanor to a second degree felony if the assault is committed against a person the actor knows is a peace officer while the officer 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 peace officer. The bill enhances from a Class B misdemeanor to a state jail felony the penalty for making a terroristic threat with intent to place any person in fear of imminent serious bodily injury if the offense is committed against a person the actor knows is a peace officer. The bill enhances the penalty for intoxication assault from a third degree felony to a first degree felony if it is shown on the trial of the offense that the person caused serious bodily injury to a peace officer while the officer was in the actual discharge of an official duty.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2908 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 42.014(a), Code of Criminal Procedure, is amended to read as follows:

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(a) In the trial of an offense under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed, or intentionally selected the person's property that was damaged or affected as a result of the offense, because of the defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference or by service as a peace officer.

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SECTION 2. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.166 to read as follows:

No equivalent provision.

Sec. 1701.166. EDUCATION CAMPAIGN. (a) The commission shall develop and implement a campaign to educate children in this state on the value that peace officers bring to a community. (b) The commission may collaborate with any relevant state agency in developing and implementing the campaign under this section.

No equivalent provision.

SECTION 3. Section 12.47, Penal Code, is amended to read as follows:

Sec. 12.47. **PENALTY IF OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE.** (a) If an affirmative finding under Article 42.014, Code of Criminal

Procedure, is made in the trial of an offense other than a first degree felony or a Class A misdemeanor, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense. If the offense is a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days.

(b) This section does not apply to the trial of:

(1) an offense of injury to a disabled individual under Section [See.] 22.04, if the affirmative finding in the case under Article 42.014, Code of Criminal Procedure, shows that the defendant intentionally selected the victim because the victim was disabled; or

(2) an offense for which the punishment is subject to enhancement based on the victim's service as a peace officer.

(c) ~~(b)~~ The attorney general, if requested to do so by a prosecuting attorney, may assist the prosecuting attorney in the investigation or prosecution of an offense committed because of bias or prejudice. The attorney general shall designate one individual in the division of the attorney general's office that assists in the prosecution of criminal cases to coordinate responses to requests made under this subsection.

SECTION 4. Section 20.02(c), Penal Code, is amended.

SECTION 2. Same as introduced version.

SECTION 5. Section 22.01, Penal Code, is amended.

SECTION 3. Same as introduced version.

SECTION 6. Section 22.07, Penal Code, is amended.

SECTION 4. Same as introduced version.

SECTION 7. Section 49.09(b-1), Penal Code, is amended.

SECTION 5. Same as introduced version.

SECTION 8. The changes in law made by this Act apply 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

SECTION 6. Same as introduced version.

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 9. This Act takes effect September 1, 2017.

SECTION 7. Same as introduced version.