

AN ACT

relating to the punishment for a criminal offense committed against a person because of bias or prejudice on the basis of status as a peace officer or judge; increasing a criminal penalty.

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

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

(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 status as a peace officer or judge.

SECTION 2. Section 20.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

1 (1) a state jail felony if the person restrained was a
2 child younger than 17 years of age; [~~or~~]

3 (2) a felony of the third degree if:

4 (A) the actor recklessly exposes the victim to a
5 substantial risk of serious bodily injury;

6 (B) the actor restrains an individual the actor
7 knows is a public servant while the public servant is lawfully
8 discharging an official duty or in retaliation or on account of an
9 exercise of official power or performance of an official duty as a
10 public servant; or

11 (C) the actor while in custody restrains any
12 other person; or

13 (3) notwithstanding Subdivision (2)(B), a felony of
14 the second degree if the actor restrains an individual the actor
15 knows is a peace officer or judge while the officer or judge is
16 lawfully discharging an official duty or in retaliation or on
17 account of an exercise of official power or performance of an
18 official duty as a peace officer or judge.

19 SECTION 3. Section 22.01, Penal Code, is amended by adding
20 Subsection (b-2) to read as follows:

21 (b-2) Notwithstanding Subsection (b)(1), an offense under
22 Subsection (a)(1) is a felony of the second degree if the offense is
23 committed against a person the actor knows is a peace officer or
24 judge while the officer or judge is lawfully discharging an
25 official duty or in retaliation or on account of an exercise of
26 official power or performance of an official duty as a peace officer
27 or judge.

1 SECTION 4. Section 22.07, Penal Code, is amended by adding
2 Subsection (c-1) to read as follows:

3 (c-1) Notwithstanding Subsection (c)(2), an offense under
4 Subsection (a)(2) is a state jail felony if the offense is committed
5 against a person the actor knows is a peace officer or judge.

6 SECTION 5. Section 49.09(b-1), Penal Code, is amended to
7 read as follows:

8 (b-1) An offense under Section 49.07 is:

9 (1) a felony of the second degree if it is shown on the
10 trial of the offense that the person caused serious bodily injury to
11 [a peace officer,] a firefighter[7] or emergency medical services
12 personnel while in the actual discharge of an official duty; or

13 (2) a felony of the first degree if it is shown on the
14 trial of the offense that the person caused serious bodily injury to
15 a peace officer or judge while the officer or judge was in the
16 actual discharge of an official duty.

17 SECTION 6. The changes in law made by this Act apply only to
18 an offense committed on or after the effective date of this Act. An
19 offense committed before the effective date of this Act is governed
20 by the law in effect on the date the offense was committed, and the
21 former law is continued in effect for that purpose. For purposes of
22 this section, an offense was committed before the effective date of
23 this Act if any element of the offense occurred before that date.

24 SECTION 7. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 2908 was passed by the House on May 12, 2017, by the following vote: Yeas 141, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2908 was passed by the Senate on May 23, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor