

By: Hunter, King of Parker, Villalba,
Herrero, et al.

H.B. No. 2908

Substitute the following for H.B. No. 2908:

By: Moody

C.S.H.B. No. 2908

A BILL TO BE ENTITLED

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; 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.

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) a state jail felony if the person restrained was a

child younger than 17 years of age; ~~[or]~~

(2) a felony of the third degree if:

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

(B) the actor restrains an individual the actor knows is a public servant while the public servant 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 public servant; or

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

(3) notwithstanding Subdivision (2)(B), a felony of the second degree 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.

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

(b-2) Notwithstanding Subsection (b)(1), an offense under Subsection (a)(1) is a felony of the second degree if the offense 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.

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

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

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

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

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

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

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

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