

1-1 By: Hunter, et al. (Senate Sponsor - Huffman) H.B. No. 2908
 1-2 (In the Senate - Received from the House May 15, 2017;
 1-3 May 15, 2017, read first time and referred to Committee on Criminal
 1-4 Justice; May 19, 2017, reported favorably by the following vote:
 1-5 Yeas 7, Nays 1; May 19, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Whitmire	X			
1-8 Huffman	X			
1-9 Birdwell			X	
1-10 Burton		X		
1-11 Creighton	X			
1-12 Garcia	X			
1-13 Hughes	X			
1-14 Menéndez	X			
1-15 Perry	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the punishment for a criminal offense committed against
 1-20 a person because of bias or prejudice on the basis of status as a
 1-21 peace officer or judge; increasing a criminal penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Article 42.014(a), Code of Criminal Procedure,
 1-24 is amended to read as follows:

1-25 (a) In the trial of an offense under Title 5, Penal Code, or
 1-26 Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an
 1-27 affirmative finding of fact and enter the affirmative finding in
 1-28 the judgment of the case if at the guilt or innocence phase of the
 1-29 trial, the judge or the jury, whichever is the trier of fact,
 1-30 determines beyond a reasonable doubt that the defendant
 1-31 intentionally selected the person against whom the offense was
 1-32 committed, or intentionally selected the person's property that was
 1-33 damaged or affected as a result of the offense, because of the
 1-34 defendant's bias or prejudice against a group identified by race,
 1-35 color, disability, religion, national origin or ancestry, age,
 1-36 gender, or sexual preference or by status as a peace officer or
 1-37 judge.

1-38 SECTION 2. Section 20.02(c), Penal Code, is amended to read
 1-39 as follows:

1-40 (c) An offense under this section is a Class A misdemeanor,
 1-41 except that the offense is:

1-42 (1) a state jail felony if the person restrained was a
 1-43 child younger than 17 years of age; ~~or~~

1-44 (2) a felony of the third degree if:

1-45 (A) the actor recklessly exposes the victim to a
 1-46 substantial risk of serious bodily injury;

1-47 (B) the actor restrains an individual the actor
 1-48 knows is a public servant while the public servant is lawfully
 1-49 discharging an official duty or in retaliation or on account of an
 1-50 exercise of official power or performance of an official duty as a
 1-51 public servant; or

1-52 (C) the actor while in custody restrains any
 1-53 other person; or

1-54 (3) notwithstanding Subdivision (2)(B), a felony of
 1-55 the second degree if the actor restrains an individual the actor
 1-56 knows is a peace officer or judge while the officer or judge is
 1-57 lawfully discharging an official duty or in retaliation or on
 1-58 account of an exercise of official power or performance of an
 1-59 official duty as a peace officer or judge.

1-60 SECTION 3. Section 22.01, Penal Code, is amended by adding
 1-61 Subsection (b-2) to read as follows:

2-1 (b-2) Notwithstanding Subsection (b)(1), an offense under
2-2 Subsection (a)(1) is a felony of the second degree if the offense is
2-3 committed against a person the actor knows is a peace officer or
2-4 judge while the officer or judge is lawfully discharging an
2-5 official duty or in retaliation or on account of an exercise of
2-6 official power or performance of an official duty as a peace officer
2-7 or judge.

2-8 SECTION 4. Section 22.07, Penal Code, is amended by adding
2-9 Subsection (c-1) to read as follows:

2-10 (c-1) Notwithstanding Subsection (c)(2), an offense under
2-11 Subsection (a)(2) is a state jail felony if the offense is committed
2-12 against a person the actor knows is a peace officer or judge.

2-13 SECTION 5. Section 49.09(b-1), Penal Code, is amended to
2-14 read as follows:

2-15 (b-1) An offense under Section 49.07 is:

2-16 (1) a felony of the second degree if it is shown on the
2-17 trial of the offense that the person caused serious bodily injury to
2-18 [a peace officer,] a firefighter[~~r~~] or emergency medical services
2-19 personnel while in the actual discharge of an official duty; or

2-20 (2) a felony of the first degree if it is shown on the
2-21 trial of the offense that the person caused serious bodily injury to
2-22 a peace officer or judge while the officer or judge was in the
2-23 actual discharge of an official duty.

2-24 SECTION 6. The changes in law made by this Act apply only to
2-25 an offense committed on or after the effective date of this Act. An
2-26 offense committed before the effective date of this Act is governed
2-27 by the law in effect on the date the offense was committed, and the
2-28 former law is continued in effect for that purpose. For purposes of
2-29 this section, an offense was committed before the effective date of
2-30 this Act if any element of the offense occurred before that date.

2-31 SECTION 7. This Act takes effect September 1, 2017.

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