

By: Wilson

H.B. No. 3454

A BILL TO BE ENTITLED

AN ACT

relating to increasing the punishment for certain offenses committed against a federal law enforcement officer or emergency services personnel.

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

SECTION 1. Section 1.07(a), Penal Code, is amended by adding Subdivision (22-a) to read as follows:

(22-a) "Emergency services personnel" includes firefighters, emergency medical services personnel as defined by Section 773.003, Health and Safety Code, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

SECTION 2. Section 19.03(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the person commits murder as defined under Section 19.02(b)(1) and:

(1) the person murders a peace officer or federal law enforcement officer ~~fireman~~ who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or federal law enforcement officer ~~fireman~~;

(2) the person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, obstruction or

retaliation, or terroristic threat under Section 22.07(a)(1), (3),
(4), (5), or (6);

(3) the person commits the murder for remuneration or
the promise of remuneration or employs another to commit the murder
for remuneration or the promise of remuneration;

(4) the person commits the murder while escaping or
attempting to escape from a penal institution;

(5) the person, while incarcerated in a penal
institution, murders another:

(A) who is employed in the operation of the penal
institution; or

(B) with the intent to establish, maintain, or
participate in a combination or in the profits of a combination;

(6) the person:

(A) while incarcerated for an offense under this
section or Section 19.02, murders another; or

(B) while serving a sentence of life imprisonment
or a term of 99 years for an offense under Section 20.04, 22.021, or
29.03, murders another;

(7) the person murders more than one person:

(A) during the same criminal transaction; or

(B) during different criminal transactions but
the murders are committed pursuant to the same scheme or course of
conduct;

(8) the person murders an individual under 10 years of
age; ~~or~~

(9) the person murders another person in retaliation

1 for or on account of the service or status of the other person as a
2 judge or justice of the supreme court, the court of criminal
3 appeals, a court of appeals, a district court, a criminal district
4 court, a constitutional county court, a statutory county court, a
5 justice court, or a municipal court; or

6 (10) the person murders an individual the person knows
7 is emergency services personnel while the individual is providing
8 emergency services.

9 SECTION 3. Section 20.02(c), Penal Code, is amended to read
10 as follows:

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

13 (1) a state jail felony if the person restrained was a
14 child younger than 17 years of age; or

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

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

18 (B) the actor restrains an individual the actor
19 knows is a public servant or federal law enforcement officer while
20 the public servant or officer is lawfully discharging an official
21 duty or in retaliation or on account of an exercise of official
22 power or performance of an official duty as a public servant or
23 federal law enforcement officer;

24 (C) the actor restrains an individual the actor
25 knows is emergency services personnel while the individual is
26 providing emergency services; or

27 (D) [~~(C)~~] the actor while in custody restrains

any other person.

SECTION 4. Sections 22.01(b) and (d), Penal Code, are amended to read as follows:

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant or federal law enforcement officer while the public servant or 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 public servant or federal law enforcement officer;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal

Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(5) a person the actor knows is emergency services personnel while the person is providing emergency services.

(d) For purposes of Subsection (b), the actor is presumed to have known the person assaulted was a public servant, a federal law enforcement officer, a security officer, or emergency services personnel if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or federal law enforcement officer or status as a security officer or emergency services personnel.

SECTION 5. Sections 22.02(b) and (c), Penal Code, are amended to read as follows:

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:

(1) the actor uses a deadly weapon during the commission of the assault and causes serious bodily injury to a person whose relationship to or association with the defendant is

described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A) by a public servant acting under color of the servant's office or employment;

(B) against a person the actor knows is a public servant or federal law enforcement officer while the public servant or 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 public servant or federal law enforcement officer;

(C) in retaliation against or on account of the service of another as a witness, prospective witness, informant, or person who has reported the occurrence of a crime; ~~or~~

(D) against a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(E) against a person the actor knows is emergency services personnel while the person is providing emergency services; or

(3) the actor is in a motor vehicle, as defined by Section 501.002, Transportation Code, and:

(A) knowingly discharges a firearm at or in the direction of a habitation, building, or vehicle;

(B) is reckless as to whether the habitation, building, or vehicle is occupied; and

(C) in discharging the firearm, causes serious

1 bodily injury to any person.

2 (c) The actor is presumed to have known the person assaulted
3 was a public servant, a federal law enforcement officer, ~~[or]~~ a
4 security officer, or emergency services personnel if the person was
5 wearing a distinctive uniform or badge indicating the person's
6 employment as a public servant or federal law enforcement officer
7 or status as a security officer or emergency services personnel.

8 SECTION 6. Section 22.07(c), Penal Code, is amended to read
9 as follows:

10 (c) An offense under Subsection (a)(2) is a Class B
11 misdemeanor, except that the offense is a Class A misdemeanor if the
12 offense:

13 (1) is committed against a member of the person's
14 family or household or otherwise constitutes family violence; or

15 (2) is committed against:

16 (A) a public servant;

17 (B) a person the actor knows is a federal law
18 enforcement officer while the officer is lawfully discharging an
19 official duty, or in retaliation or on account of an exercise of
20 official power or performance of an official duty as a federal law
21 enforcement officer; or

22 (C) a person the actor knows is emergency
23 services personnel while the person is providing emergency
24 services.

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

27 (b-1) An offense under Section 49.07 is a felony of the

1 second degree if it is shown on the trial of the offense that the
2 person caused serious bodily injury to a peace officer, a federal
3 law enforcement officer [~~firefighter~~], or emergency [~~medical~~]
4 services personnel while in the actual discharge of an official
5 duty.

6 SECTION 8. Sections 22.01(e)(1) and 49.09(b-3), Penal Code,
7 are repealed.

8 SECTION 9. The changes in law made by this Act apply only to
9 an offense committed on or after the effective date of this Act. An
10 offense committed before the effective date of this Act is governed
11 by the law in effect on the date the offense was committed, and the
12 former law is continued in effect for that purpose. For purposes of
13 this section, an offense was committed before the effective date of
14 this Act if any element of the offense occurred before that date.

15 SECTION 10. This Act takes effect September 1, 2017.