

By: King of Hemphill

H.B. No. 4108

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of the offenses of assault and
3 harassment by persons committed to certain facilities; increasing a
4 criminal penalty.

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

6 SECTION 1. Section 1.07, Penal Code, is amended by adding
7 Subdivision (8-a) to read as follows:

8 (8-a) "Civil commitment facility" means a facility
9 owned, leased, or operated by the state, or by a vendor under
10 contract with the state, that houses only persons who have been
11 civilly committed as sexually violent predators under Chapter 841,
12 Health and Safety Code.

13 SECTION 2. Section 22.01, Penal Code, is amended by
14 amending Subsections (b-1) and (f) and adding Subsection (b-2) to
15 read as follows:

16 (b-1) Notwithstanding Subsection (b), an offense under
17 Subsection (a)(1) is a felony of the third degree if the offense is
18 committed:

19 (1) while the actor is committed to a civil commitment
20 facility; and

21 (2) against:

22 (A) an officer or employee of the Texas Civil
23 Commitment Office:

24 (i) while the officer or employee is

1 lawfully discharging an official duty at a civil commitment
2 facility; or

3 (ii) in retaliation for or on account of an
4 exercise of official power or performance of an official duty by the
5 officer or employee; or

6 (B) a person who contracts with the state to
7 perform a service in a civil commitment facility or an employee of
8 that person:

9 (i) while the person or employee is engaged
10 in performing a service within the scope of the contract, if the
11 actor knows the person or employee is authorized by the state to
12 provide the service; or

13 (ii) in retaliation for or on account of the
14 person's or employee's performance of a service within the scope of
15 the contract.

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

18 (1) the offense is committed against a person whose
19 relationship to or association with the defendant is described by
20 Section 71.0021(b), 71.003, or 71.005, Family Code;

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

27 (3) the offense is committed by intentionally,

1 knowingly, or recklessly impeding the normal breathing or
2 circulation of the blood of the person by applying pressure to the
3 person's throat or neck or by blocking the person's nose or mouth.

4 (f) For the purposes of Subsections (b)(2)(A) and (b-2)(2)
5 [~~(b-1)(2)~~]:

6 (1) a defendant has been previously convicted of an
7 offense listed in those subsections committed against a person
8 whose relationship to or association with the defendant is
9 described by Section 71.0021(b), 71.003, or 71.005, Family Code, if
10 the defendant was adjudged guilty of the offense or entered a plea
11 of guilty or nolo contendere in return for a grant of deferred
12 adjudication, regardless of whether the sentence for the offense
13 was ever imposed or whether the sentence was probated and the
14 defendant was subsequently discharged from community supervision;
15 and

16 (2) a conviction under the laws of another state for an
17 offense containing elements that are substantially similar to the
18 elements of an offense listed in those subsections is a conviction
19 of the offense listed.

20 SECTION 3. The heading to Section 22.11, Penal Code, is
21 amended to read as follows:

22 Sec. 22.11. HARASSMENT BY PERSONS IN CERTAIN [~~CORRECTIONAL~~]
23 FACILITIES; HARASSMENT OF PUBLIC SERVANT.

24 SECTION 4. Sections 22.11(a) and (e), Penal Code, are
25 amended to read as follows:

26 (a) A person commits an offense if, with the intent to
27 assault, harass, or alarm, the person:

1 (1) while imprisoned or confined in a correctional or
2 detention facility, causes another person to contact the blood,
3 seminal fluid, vaginal fluid, saliva, urine, or feces of the actor,
4 any other person, or an animal; ~~[or]~~

5 (2) while committed to a civil commitment facility,
6 causes:

7 (A) an officer or employee of the Texas Civil
8 Commitment Office to contact the blood, seminal fluid, vaginal
9 fluid, saliva, urine, or feces of the actor, any other person, or an
10 animal:

11 (i) while the officer or employee is
12 lawfully discharging an official duty at a civil commitment
13 facility; or

14 (ii) in retaliation for or on account of an
15 exercise of official power or performance of an official duty by the
16 officer or employee; or

17 (B) a person who contracts with the state to
18 perform a service in the facility or an employee of that person to
19 contact the blood, seminal fluid, vaginal fluid, saliva, urine, or
20 feces of the actor, any other person, or an animal:

21 (i) while the person or employee is engaged
22 in performing a service within the scope of the contract, if the
23 actor knows the person or employee is authorized by the state to
24 provide the service; or

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

1 (3) causes another person the actor knows to be a
2 public servant to contact the blood, seminal fluid, vaginal fluid,
3 saliva, urine, or feces of the actor, any other person, or an animal
4 while the public servant is lawfully discharging an official duty
5 or in retaliation or on account of an exercise of the public
6 servant's official power or performance of an official duty.

7 (e) For purposes of Subsection (a)(3) [~~(a)(2)~~], the actor is
8 presumed to have known the person was a public servant if the person
9 was wearing a distinctive uniform or badge indicating the person's
10 employment as a public servant.

11 SECTION 5. The changes in law made by this Act apply only to
12 an offense committed on or after the effective date of this Act. An
13 offense committed before the effective date of this Act is governed
14 by the law in effect on the date the offense was committed, and the
15 former law is continued in effect for that purpose. For purposes of
16 this section, an offense was committed before the effective date of
17 this Act if any element of the offense occurred before that date.

18 SECTION 6. This Act takes effect September 1, 2017.