

By: Campbell

S.B. No. 371

A BILL TO BE ENTITLED

AN ACT

relating to increasing the criminal penalty for certain assaults committed against employees of primary and secondary schools.

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

SECTION 1. Section 22.01, Penal Code, is amended by amending Subsections (b) and (d) and adding Subsections (d-1) and (d-2) 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 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;

(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,

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 (3) a person who contracts with government to perform
5 a service in a facility as defined by Section 1.07(a)(14), Penal
6 Code, or Section 51.02(13) or (14), Family Code, or an employee of
7 that person:

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

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

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

17 (5) a person the actor knows is emergency services
18 personnel while the person is providing emergency services; ~~or~~

19 (6) a pregnant individual to force the individual to
20 have an abortion; or

21 (7) an employee of a private or public primary or
22 secondary school, including an open-enrollment charter school:

23 (A) while the employee is engaged in performing
24 duties within the scope of employment; or

25 (B) in retaliation for or on account of the
26 employee's performance of a duty within the scope of employment.

27 (d) For purposes of Subsections (b)(1), (4), and (5)

1 ~~[Subsection (b)]~~, the actor is presumed to have known the person
2 assaulted was a public servant, a security officer, or emergency
3 services personnel if the person was wearing a distinctive uniform
4 or badge indicating the person's employment as a public servant or
5 status as a security officer or emergency services personnel. For
6 purposes of Subsection (b)(7), the actor is presumed to have known
7 that the person assaulted was a school employee if the actor was a
8 student enrolled in, or the parent or guardian of a student enrolled
9 in, the school that employed the person assaulted.

10 (d-1) The increase in punishment provided by Subsection
11 (b)(7) applies regardless of whether the offense occurred:

12 (1) off school premises; or

13 (2) at a time at which school was not in session.

14 (d-2) The increase in punishment provided by Subsection
15 (b)(7) does not apply if the actor is a student enrolled in a
16 special education program under Subchapter A, Chapter 29, Education
17 Code.

18 SECTION 2. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this Act.
20 An offense committed before the effective date of this Act is
21 governed by the law in effect on the date the offense was committed,
22 and the former law is continued in effect for that purpose. For
23 purposes of this section, an offense was committed before the
24 effective date of this Act if any element of the offense occurred
25 before that date.

26 SECTION 3. This Act takes effect September 1, 2019.