By:  Swanson, et al. (Senate Sponsor - Bettencourt) H.B. No. 1306

(In the Senate - Received from the House May 17, 2021; May 17, 2021, read first time and referred to Committee on Criminal Justice; May 22, 2021, reported favorably by the following vote: Yeas 7, Nays 0; May 22, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt     X

Birdwell        X

Hinojosa        X

Miles           X

Nichols         X

A BILL TO BE ENTITLED

AN ACT

relating to increasing the criminal penalty for assault or aggravated assault of a process server.

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

SECTION 1.  Section 22.01(b), Penal Code, is 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 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, 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;

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

(6)  a person the actor knows is a process server while the person is performing a duty as a process server;

(7)  a pregnant individual to force the individual to have an abortion; or

(8) [~~(7)~~]  a person the actor knows is pregnant at the time of the offense.

SECTION 2.  Section 22.01(e), Penal Code, is amended by adding Subdivision (2) to read as follows:

(2)  "Process server" has the meaning assigned by Section 156.001, Government Code.

SECTION 3.  Sections 22.02(b) and (d), 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 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;

(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 process server while the person is performing a duty as a process server; or

(E)  against a person the actor knows is a security officer while the officer is performing a duty as a security officer; 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 bodily injury to any person.

(d)  In this section:

(1)  "Process server" has the meaning assigned by Section 156.001, Government Code.

(2)  "Security [~~, "security~~] officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a noncommissioned security officer registered under Section 1702.221, Occupations Code.

SECTION 4.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 5.  This Act takes effect September 1, 2021.

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