By:  Huffman S.B. No. 1056

(In the Senate - Filed March 4, 2021; March 18, 2021, read first time and referred to Committee on Jurisprudence; April 9, 2021, reported favorably by the following vote: Yeas 5, Nays 0; April 9, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman           X

Hinojosa             X

Creighton            X

Hughes               X

Johnson              X

A BILL TO BE ENTITLED

AN ACT

relating to criminal liability for reporting false information to draw an emergency response; creating an offense.

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

SECTION 1.  Chapter 22, Penal Code, is amended by adding Section 22.14 to read as follows:

Sec. 22.14.  SWATTING. (a)  A person commits an offense if the person reports a crime or an emergency or causes any report of a crime or an emergency to be made to a law enforcement officer, law enforcement agency, 9-1-1 service, official or volunteer agency, or any other governmental employee or contractor who is authorized to receive reports of a crime or emergency and:

(1)  the person knows that the report is false;

(2)  the report is reasonably likely to cause an emergency response from a law enforcement agency or other emergency responder; and

(3)  the person makes the report or causes the report to be made with reckless disregard about whether the emergency response by a law enforcement agency or other emergency responder may directly result in bodily harm to any individual.

(b)  An offense under this section is a Class A misdemeanor, except that:

(1)  the offense is a State Jail Felony if it is shown on the trial of the offense that the defendant has been previously convicted on two or more occasions of an offense under this section; or

(2)  the offense is a felony of the third degree if the false report results in an emergency response to a reported crime and a person is killed or suffers serious bodily injury as a proximate result of lawful conduct arising out of that response.

(c)  A court may order a defendant convicted of an offense under this section to make restitution to a public agency for the reasonable costs of the emergency response by that public agency resulting from the false report.

(d)  If in the trial of an offense under this section, an affirmative finding is made that the offense was committed because of bias or prejudice, under Article 42.014, Code of Criminal Procedure, the punishment for the offense is increased as provided under Section 12.47.

(e)  It is not a defense to prosecution under this section that no physical harm occurred to any person as a result of the false report, or that any harm that occurred was to physical property rather than injury to a person.

(f)  Nothing in this section shall be construed in any manner to:

(1)  conflict with 47 U.S.C. Section 230 of the Communication Decency Act; or

(2)  conflict with 42 U.S.C. Section 1983 of the Civil Rights Act.

(g)  If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

SECTION 2.  Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.40 to read as follows:

Art. 13.40.  SWATTING. The offense of swatting may be prosecuted in any county in which:

(1)  the defendant resides;

(2)  the false report was communicated; or

(3)  a law enforcement agency responded to the false report.

SECTION 3.  Section 51.03(b), Family Code, is amended to read as follows:

(b)  Conduct indicating a need for supervision is:

(1)  subject to Subsection (f), conduct, other than a traffic offense, that violates:

(A)  the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B)  the penal ordinances of any political subdivision of this state;

(2)  the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;

(3)  conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 485.001, Health and Safety Code;

(4)  an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 37.007(c), Education Code;

(5)  notwithstanding Subsection (a)(1), conduct described by Section 43.02(a) or (b), Penal Code; [~~or~~]

(6)  notwithstanding Subsection (a)(1), conduct that violates Section 43.261, Penal Code; or

(7)  notwithstanding Subsection (a)(1), conduct that violates Section 22.14, Penal Code, if the child has not been previously adjudicated for conduct in violation of that section.

SECTION 4.  This Act takes effect September 1, 2021.

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