

By: Sherman, Sr.

H.B. No. 367

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution and reporting of certain offenses
3 committed because of bias or prejudice; creating a criminal
4 offense.

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

6 SECTION 1. Article 2.211, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 2.211. HATE CRIME REPORTING. (a) In addition to
9 performing duties required by Article 2.21, a clerk of a district or
10 county court in which an affirmative finding under Article 42.014
11 is requested shall report that request to the Texas Judicial
12 Council, along with a statement as to whether the request was
13 granted by the court and, if so, whether the affirmative finding was
14 entered in the judgment in the case.

15 (b) If an affirmative finding was entered in the judgment in
16 the case as described by Subsection (a), the clerk shall provide
17 notice of the finding to the appropriate local law enforcement
18 agency to enable entry of the information into the National Crime
19 Information Center and Texas Crime Information Center. The agency
20 receiving the notice promptly shall enter the information into the
21 databases.

22 (c) The clerk shall make a [the] report or provide a notice
23 required by this article not later than the 30th day after the date
24 the judgment is entered in the case.

1 SECTION 2. Section 46.04, Penal Code, is amended by adding
2 Subsections (a-1) and (h) and amending Subsection (e) to read as
3 follows:

4 (a-1) A person who has been convicted of an offense under
5 Section 22.01, 22.011, 22.02, 22.021, 22.04, 22.05, 22.07, 25.11,
6 28.02, 28.03, or 28.08 for which the judgment contains an
7 affirmative finding under Article 42.014, Code of Criminal
8 Procedure, commits an offense if the person possesses a firearm
9 before the fifth anniversary of the later of:

10 (1) the date of the person's release from confinement
11 following the conviction; or

12 (2) the date of the person's release from supervision
13 under community supervision, parole, or mandatory supervision, as
14 applicable.

15 (e) An offense under this section is a Class A misdemeanor,
16 except that an offense under Subsection (a) or (a-1) is a felony of
17 the third degree. [~~An offense under Subsection (b) or (c) is a Class~~
18 A misdemeanor.]

19 (h) If conduct that constitutes an offense under Subsection
20 (a-1) also constitutes an offense under Subsection (a), the actor
21 may be prosecuted under Subsection (a) or (a-1), but not both. If
22 conduct that constitutes an offense under Subsection (a-1) also
23 constitutes an offense under Subsection (b), the actor may be
24 prosecuted under Subsection (a-1) or (b), but not both.

25 SECTION 3. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

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