

By: Wu

H.B. No. 3017

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 22.13 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

1 convicted on two or more occasions of an offense under this section;

2 or

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

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

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

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

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

22 (1) conflict with 47 U.S.C. § 230 of the Communication
23 Decency Act; or,

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

26 (g) If conduct constituting an offense under this section
27 also constitutes an offense under another section of this code, the

1 actor may be prosecuted under either section or both sections.

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

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

- 6 (1) the defendant resides;
- 7 (2) the false report was communicated; or
- 8 (3) a law enforcement agency responded to the false
9 report.

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

12 (b) Conduct indicating a need for supervision is:

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

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

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

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

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

27 (4) an act that violates a school district's

1 previously communicated written standards of student conduct for
2 which the child has been expelled under Section 37.007(c),
3 Education Code;

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

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

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

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