

BILL ANALYSIS

Senate Research Center
88R29 TSS-F

H.B. 28
By: Slawson et al. (Birdwell)
Criminal Justice
5/4/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently in statute, if the victim and perpetrator did not have a prior established relationship, the penalty for aggravated assault resulting in paralysis or a persistent vegetative state is a second degree felony. Due to the severity of the offense, an aggravated assault in which the actor uses a deadly weapon and causes a traumatic injury resulting in paralysis or a persistent vegetative state to a victim commands a more stringent penalty.

A first degree felony is punishable by confinement in prison for life or a term from five to ninety-nine years and, in addition to confinement, an optional fine not to exceed \$10,000. A second degree felony is punishable by confinement in prison for a term from two to twenty years and, in addition to confinement, an optional fine not to exceed \$10,000.

Two Erath County constituents were victims of aggravated assault and sustained traumatic injuries that resulted in paralysis. Neither had any relationship with their attackers, thus the district attorney in each case was statutorily limited in their ability to charge the assailant to only a second degree felony. This lack of prosecutorial authority resulted in far too short of a sentence for the perpetrators of these horrific crimes and created immense suffering for the victims and their families.

H.B. 28 amends the Penal Code to enhance the penalty for aggravated assault from a second degree felony to a first degree felony if the actor uses a deadly weapon during an assault and causes a traumatic brain or spine injury to another that results in a persistent vegetative state or irreversible paralysis.

H.B. 28 amends current law relating to enhancing the punishment for certain conduct constituting the criminal offense of aggravated assault.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Todd-Hogland Act.

SECTION 2. Amends Section 22.02(b), Penal Code, to provide that an offense under Section 22.02 (Aggravated Assault) is a felony of the second degree, except that the offense is a felony of the first degree if the actor uses a deadly weapon during the commission of the assault and causes a traumatic brain or spine injury to another that results in a persistent vegetative state or irreversible paralysis. Makes nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.