

BILL ANALYSIS

H.B. 3816
By: Herrero
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The use of body armor makes it difficult for law enforcement to use various tactics to stop a person in the act of a crime or when fleeing the scene of a crime, as was the case in the 2012 Aurora shooting, the 2015 San Bernardino shooting, the 2017 Sutherland Springs shooting, and the 2022 Boulder shooting. Currently, there is no law in Texas regarding the use of body armor during the commission of a crime. State law only makes it illegal for anyone convicted of a felony to possess body armor. H.B. 3816 seeks to address this issue by requiring a judgment in the trial of certain offenses to reflect an affirmative finding of body armor usage and providing that if metal or body armor is used during the commission of such an offense, the punishment for that offense is increased to that of the next highest category.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3816 amends the Code of Criminal Procedure to require the judge in a trial of an offense against the person punishable as a Class A misdemeanor or any higher category of offense, other than a first degree felony, if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant used metal or body armor during the commission of the offense, to make an affirmative finding of fact and enter the affirmative finding in the judgement of the case. The bill defines "metal or body armor" by reference as any body covering manifestly designed, made, or adapted for the purpose of protecting a person against gunfire.

H.B. 3816 amends the Penal Code to increase the punishment for an offense against the person to the punishment prescribed for the next highest category of offense if such an affirmative finding is made in the trial of the offense, except that if the offense is a Class A misdemeanor, the minimum term of confinement is increased to 180 days. The bill applies only to an offense committed on or after the bill's effective date and provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.