

BILL ANALYSIS

Senate Research Center
88R13041 JSC-D

S.B. 1960
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows juvenile probation officers to carry firearms while on duty. However, probation officers have not been specifically allowed to carry firearms anywhere while they are off duty. Additionally, it is not clearly a crime to try and take a weapon away from a juvenile probation officer.

Bill Summary:

The proposed legislation adds juvenile probation officers to the list of individuals that are explicitly exempt from the laws that restrict where people can carry a firearm. S.B. 1960 allows juvenile probation officers to carry a firearm anywhere at any time regardless of whether they are on duty. This allows juvenile probation officers to achieve parity with other law enforcement professionals.

Additionally, S.B. 1960 includes all of S.B. 1961, which would specifically make it a felony of the third degree for a person to take a weapon away from a probation officer.

As proposed, S.B. 1960 amends current law relating to the carrying of weapons by community supervision and corrections department officers, juvenile probation officers, and certain retired law enforcement officers and to criminal liability for taking a weapon from certain of those officers.

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. Amends Article 2.1305, Code of Criminal Procedure, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits an establishment serving the public from prohibiting or otherwise restricting a peace officer, a special investigator, a community supervision and corrections department officer, or a juvenile probation officer described by Section 46.15(a)(1) (relating to providing that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to peace officers or special investigators, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state under certain circumstances), (3) (relating to providing that Sections 46.02 and 46.03 do not apply to parole officers and neither section prohibits an officer from carrying a weapon in this state under certain circumstances), or (9) (relating to providing that Sections 46.02 and 46.03 do not apply to a juvenile probation officer who is authorized to carry a firearm), Penal Code, as applicable, from carrying on the establishment's premises a weapon that the officer, or investigator, rather than peace officer or special investigator, is otherwise authorized to carry, regardless of whether the officer or investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon. Makes nonsubstantive and conforming changes.

(a-1) Prohibits an establishment serving the public from prohibiting or otherwise restricting an honorably retired peace officer or other qualified retired law enforcement officer described by Section 46.15(a)(5) (relating to providing that Sections 46.02 and 46.03 do not apply to an honorably retired peace officer or other qualified retired law enforcement officer who holds a certificate of proficiency and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency), Penal Code, from carrying on the establishment's premises a weapon that the officer is otherwise authorized to carry.

SECTION 2. Amends Article 17.03(b-3)(2), Code of Criminal Procedure, to redefine "offense involving violence."

SECTION 3. Amends Section 76.0051, Government Code, as follows:

Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. Provides that an officer is authorized to carry a weapon under this section, regardless of whether the officer is engaged in, rather than while the officer is engaged in, the actual discharge of the officer's duties, only under certain circumstances.

SECTION 4. Amends Section 142.006(a), Human Resources Code, to authorize a juvenile probation officer to carry a firearm under Section 142.006 (Authorization to Carry Firearm), regardless of whether the officer is carrying the firearm in the course of the officer's official duties if certain circumstances apply.

SECTION 5. Amends the heading to Section 38.14, Penal Code, to read as follows:

Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM CERTAIN INDIVIDUALS IN PUBLIC SAFETY.

SECTION 6. Amends Sections 38.14(b), (c), and (d), Penal Code, as follows:

(a) Provides that a person commits an offense if the person intentionally or knowingly and with force takes or attempts to take a firearm, nightstick, stun gun, or personal protection chemical dispensing device from certain persons, including a juvenile probation officer.

(c)-(d) Makes conforming changes to these subsections.

SECTION 7. Amends Section 46.15, Penal Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122 (Special Investigators), Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment, rather than an establishment in this state, serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) makes no changes to this subdivision;

(3) community supervision and corrections department officers appointed or employed under Section 76.004 (Department Director; Fiscal Officer), Government Code, and authorized to carry a weapon under Section 76.0051 (Authorization to Carry Weapon), Government Code, and neither section prohibits the officer from carrying a weapon in this state, including in an establishment serving the public, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon. Deletes existing text providing neither section prohibits the officer from carrying a

weapon in this state, including in an establishment serving the public, regardless of whether the officer is authorized to carry a weapon under Section 76.0051, Government Code. Makes nonsubstantive changes;

(4) makes no changes to this subdivision;

(5) an honorably retired peace officer or other qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C, who holds a certificate of proficiency issued under Section 1701.357 (Weapons Proficiency for Qualified Retired Law Enforcement Officers), Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is an honorably retired peace officer or other qualified retired law enforcement officer, and neither section prohibits the officer from carrying a weapon in this state, including in an establishment serving the public;

(6)-(8) makes no changes to these subdivisions;

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resource Code, and neither section prohibits the officer from carrying a firearm in this state, including in an establishment serving the public, regardless of whether the officer is carrying the firearm in the course of the officer's official duties; or

(10) makes no changes to this subdivision.

(c) Defines "establishment serving the public."

SECTION 8. Makes application of Article 2.1305, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 9. Makes application of Section 76.0051, Government Code, as amended by this Act, and Section 142.006, Human Resources Code, as amended by this Act, prospective.

SECTION 10. Provides that Sections 38.14 and 46.15 (Nonapplicability), Penal Code, as amended by this Act, apply only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that for the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11. Effective date: September 1, 2023.