By:  A. Johnson of Harris, et al. H.B. No. 165

     (Senate Sponsor - Whitmire)

(In the Senate - Received from the House April 12, 2023; April 13, 2023, read first time and referred to Committee on Criminal Justice; May 11, 2023, reported favorably by the following vote: Yeas 6, Nays 0; May 11, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Flores          X

Bettencourt               X

Hinojosa        X

Huffman         X

King            X

Miles           X

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for an aggravated assault occurring as part of a mass shooting; increasing a criminal penalty.

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

SECTION 1.  Section 1.07(a), Penal Code, is amended by adding Subdivision (30-a) to read as follows:

(30-a)  "Mass shooting" means a person's discharge of a firearm to cause serious bodily injury or death, or to attempt to cause serious bodily injury or death, to four or more persons:

(A)  during the same criminal transaction; or

(B)  during different criminal transactions but pursuant to the same scheme or course of conduct.

SECTION 2.  Section 3.03, Penal Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a)  When the accused is found guilty of more than one offense arising out of the same criminal episode prosecuted in a single criminal action, a sentence for each offense for which the accused [~~he~~] has been found guilty shall be pronounced. Except as provided by Subsections [~~Subsection~~] (b) and (c), the sentences shall run concurrently.

(c)  If in a single criminal action the accused is found guilty of more than one offense under Section 22.02 that arises out of the same criminal episode, the sentences run consecutively if each sentence is for a conviction of an assault punishable as a felony of the first degree under Section 22.02(b)(4).

SECTION 3.  Section 3.04(c), Penal Code, is amended to read as follows:

(c)  The right to severance under this section does not apply to a prosecution for offenses described by Section 3.03(b) or (c) unless the court determines that the defendant or the state would be unfairly prejudiced by a joinder of offenses, in which event the judge may order the offenses to be tried separately or may order other relief as justice requires.

SECTION 4.  Section 22.02(b), Penal Code, is amended to read as follows:

(b)  An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if:

(1)  the actor uses a deadly weapon during the commission of the assault and causes serious bodily injury to a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(2)  regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A)  by a public servant acting under color of the servant's office or employment;

(B)  against a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(C)  in retaliation against or on account of the service of another as a witness, prospective witness, informant, or person who has reported the occurrence of a crime;

(D)  against a person the actor knows is a process server while the person is performing a duty as a process server; or

(E)  against a person the actor knows is a security officer while the officer is performing a duty as a security officer; [~~or~~]

(3)  the actor is in a motor vehicle, as defined by Section 501.002, Transportation Code, and:

(A)  knowingly discharges a firearm at or in the direction of a habitation, building, or vehicle;

(B)  is reckless as to whether the habitation, building, or vehicle is occupied; and

(C)  in discharging the firearm, causes serious bodily injury to any person; or

(4)  the actor commits the assault as part of a mass shooting.

SECTION 5.  The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. 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. For 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 6.  This Act takes effect September 1, 2023.

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