

By: A. Johnson of Harris

H.B. No. 165

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution of and punishment for an aggravated
3 assault occurring as part of a mass shooting; increasing a criminal
4 penalty.

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

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

8 (30-a) "Mass shooting" means a person's discharge of a
9 firearm to cause serious bodily injury or death, or to attempt to
10 cause serious bodily injury or death, to four or more persons:

11 (A) during the same criminal transaction; or

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

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

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

22 (c) If in a single criminal action the accused is found
23 guilty of more than one offense under Section 22.02 that arises out
24 of the same criminal episode, the sentences run consecutively if

1 each sentence is for a conviction of an assault punishable as a
2 felony of the first degree under Section 22.02(b)(4).

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

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

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

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

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

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

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

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

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

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

6 (E) against a person the actor knows is a
7 security officer while the officer is performing a duty as a
8 security officer; ~~or~~

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

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

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

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

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

19 SECTION 5. The changes in law made by this Act apply only to
20 an offense committed on or after the effective date of this Act. An
21 offense committed before the effective date of this Act is governed
22 by the law in effect on the date the offense was committed, and the
23 former law is continued in effect for that purpose. For purposes of
24 this section, an offense was committed before the effective date of
25 this Act if any element of the offense occurred before that date.

26 SECTION 6. This Act takes effect September 1, 2023.