

1-1 By: A. Johnson of Harris, et al. H.B. No. 165  
 1-2 (Senate Sponsor - Whitmire)  
 1-3 (In the Senate - Received from the House April 12, 2023;  
 1-4 April 13, 2023, read first time and referred to Committee on  
 1-5 Criminal Justice; May 11, 2023, reported favorably by the  
 1-6 following vote: Yeas 6, Nays 0; May 11, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Flores	X			
1-10 Bettencourt			X	
1-11 Hinojosa	X			
1-12 Huffman	X			
1-13 King	X			
1-14 Miles	X			

1-16 A BILL TO BE ENTITLED  
 1-17 AN ACT

1-18 relating to the prosecution of and punishment for an aggravated  
 1-19 assault occurring as part of a mass shooting; increasing a criminal  
 1-20 penalty.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 1.07(a), Penal Code, is amended by  
 1-23 adding Subdivision (30-a) to read as follows:

1-24 (30-a) "Mass shooting" means a person's discharge of a  
 1-25 firearm to cause serious bodily injury or death, or to attempt to  
 1-26 cause serious bodily injury or death, to four or more persons:

1-27 (A) during the same criminal transaction; or

1-28 (B) during different criminal transactions but  
 1-29 pursuant to the same scheme or course of conduct.

1-30 SECTION 2. Section 3.03, Penal Code, is amended by amending  
 1-31 Subsection (a) and adding Subsection (c) to read as follows:

1-32 (a) When the accused is found guilty of more than one  
 1-33 offense arising out of the same criminal episode prosecuted in a  
 1-34 single criminal action, a sentence for each offense for which the  
 1-35 accused ~~he~~ has been found guilty shall be pronounced. Except as  
 1-36 provided by Subsections ~~Subsection~~ (b) and (c), the sentences  
 1-37 shall run concurrently.

1-38 (c) If in a single criminal action the accused is found  
 1-39 guilty of more than one offense under Section 22.02 that arises out  
 1-40 of the same criminal episode, the sentences run consecutively if  
 1-41 each sentence is for a conviction of an assault punishable as a  
 1-42 felony of the first degree under Section 22.02(b)(4).

1-43 SECTION 3. Section 3.04(c), Penal Code, is amended to read  
 1-44 as follows:

1-45 (c) The right to severance under this section does not apply  
 1-46 to a prosecution for offenses described by Section 3.03(b) or (c)  
 1-47 unless the court determines that the defendant or the state would be  
 1-48 unfairly prejudiced by a joinder of offenses, in which event the  
 1-49 judge may order the offenses to be tried separately or may order  
 1-50 other relief as justice requires.

1-51 SECTION 4. Section 22.02(b), Penal Code, is amended to read  
 1-52 as follows:

1-53 (b) An offense under this section is a felony of the second  
 1-54 degree, except that the offense is a felony of the first degree if:

1-55 (1) the actor uses a deadly weapon during the  
 1-56 commission of the assault and causes serious bodily injury to a  
 1-57 person whose relationship to or association with the defendant is  
 1-58 described by Section 71.0021(b), 71.003, or 71.005, Family Code;

1-59 (2) regardless of whether the offense is committed  
 1-60 under Subsection (a)(1) or (a)(2), the offense is committed:

1-61 (A) by a public servant acting under color of the

2-1 servant's office or employment;

2-2 (B) against a person the actor knows is a public  
2-3 servant while the public servant is lawfully discharging an  
2-4 official duty, or in retaliation or on account of an exercise of  
2-5 official power or performance of an official duty as a public  
2-6 servant;

2-7 (C) in retaliation against or on account of the  
2-8 service of another as a witness, prospective witness, informant, or  
2-9 person who has reported the occurrence of a crime;

2-10 (D) against a person the actor knows is a process  
2-11 server while the person is performing a duty as a process server; or

2-12 (E) against a person the actor knows is a  
2-13 security officer while the officer is performing a duty as a  
2-14 security officer; [~~or~~]

2-15 (3) the actor is in a motor vehicle, as defined by  
2-16 Section 501.002, Transportation Code, and:

2-17 (A) knowingly discharges a firearm at or in the  
2-18 direction of a habitation, building, or vehicle;

2-19 (B) is reckless as to whether the habitation,  
2-20 building, or vehicle is occupied; and

2-21 (C) in discharging the firearm, causes serious  
2-22 bodily injury to any person; or

2-23 (4) the actor commits the assault as part of a mass  
2-24 shooting.

2-25 SECTION 5. The changes in law made by this Act apply only to  
2-26 an offense committed on or after the effective date of this Act. An  
2-27 offense committed before the effective date of this Act is governed  
2-28 by the law in effect on the date the offense was committed, and the  
2-29 former law is continued in effect for that purpose. For purposes of  
2-30 this section, an offense was committed before the effective date of  
2-31 this Act if any element of the offense occurred before that date.

2-32 SECTION 6. This Act takes effect September 1, 2023.

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