

BILL ANALYSIS

Senate Research Center

H.B. 108
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Body armor can provide criminals with a tactical advantage, making it harder for law enforcement to employ effective strategies to apprehend suspects during the commission of a crime or when fleeing a scene. This issue has been highlighted in numerous high-profile violent incidents, such as the 2012 Aurora shooting, the 2017 Sutherland Springs shooting, and the 2022 Boulder shooting, according to news outlets such as The Denver Post, The Washington Post, and NPR. While state law currently prohibits individuals with felony convictions from possessing body armor, there is no state law against the use of body armor during the commission of a crime. H.B. 108 seeks to address this issue by requiring an affirmative finding relating to the use of body armor during the commission of certain offenses in the trial of the offense and by increasing the punishment for an offense in which such an affirmative finding is made in the trial.

H.B. 108 amends current law relating to the use of metal or body armor while committing certain offenses and increases a criminal penalty.

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 42.01, Code of Criminal Procedure, by adding Section 17 to require that the judgment, in addition to the information described by Section 1 (relating to providing that a judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant), reflect the affirmative finding entered pursuant to Article 42.01992.

SECTION 2. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.01992, as follows:

Art. 42.01992. FINDING REGARDING USE OF METAL OR BODY ARMOR. (a) Requires the judge, in the trial of an offense under Title 5 (Offenses Against the Person), Penal Code, punishable as a felony of the third degree or any higher category of offense, other than a felony of the first degree, to make an affirmative finding of fact and enter the affirmative finding in the judgment in the case 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, as defined by Section 46.041 (Unlawful Possession of Metal or Body Armor by Felon), Penal Code, during the commission of the offense.

(b) Prohibits the judge from making an affirmative finding under this article if the defendant is a peace officer as defined by Article 2A.001 (Peace Officers Generally), a member of the state military forces or the armed forces of the United States, or a security officer as defined by Section 1702.002 (Definitions), Occupations Code.

SECTION 3. Amends Subchapter D, Chapter 12, Penal Code, by adding Section 12.503, as follows:

Sec. 12.503. PENALTY IF METAL OR BODY ARMOR USED DURING COMMISSION OF OFFENSE. Provides that, if an affirmative finding under Article 42.01992, Code of Criminal Procedure, is made in the trial of an offense, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense.

SECTION 4. Makes application of this Act prospective.

SECTION 5, Effective date: September 1, 2025.