

BILL ANALYSIS

H.B. 2458
By: Virdell
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that current law relating to brandishing a firearm creates confusion over what conduct is considered unlawful, as state law does not define "brandishing." According to Merriam-Webster, "brandish" is defined as shaking or waving (something, such as a weapon) menacingly, whereas federal law defines that term, with respect to a firearm, as displaying all or part of the firearm, or otherwise making the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person. The bill author has informed the committee that, depending on the situation, displaying or drawing a firearm does not alone constitute an illegal act; however, justification for such an action may not be as clear in all cases. Depending on the circumstances, individuals who display or draw a firearm in Texas may face charges such as unlawful carrying of a weapon, deadly conduct, or aggravated assault, among other offenses, if the conduct is deemed unlawful. H.B. 2458 seeks to address this issue by establishing a defense to prosecution for an individual who exhibits a deadly weapon in certain circumstances.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2458 amends the Penal Code to establish as a defense to prosecution for aggravated assault that the actor threatened to cause death or serious bodily injury by exhibiting a deadly weapon if the actor's threat would be justified under state law relating to justification excluding criminal responsibility and the actor reasonably believed that creating an apprehension that the actor would use the deadly weapon was immediately necessary to defend the actor against another's use or attempted use of unlawful force or deadly force.

H.B. 2458 applies only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date 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 these purposes, an offense was committed before the bill's effective date if any element of the offense was committed before that date.

EFFECTIVE DATE

September 1, 2025.