

BILL ANALYSIS

S.B. 1056
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Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The false reporting of a crime or emergency in order to incite an extreme reaction by law enforcement, also referred to as "swatting," has seen a substantial rise due to its popularity in the realms of social media and online video games. Though this issue has been closely monitored by the FBI since 2008, the impact of swatting hit close to home more recently in Nacogdoches, Texas, when a student at Stephen F. Austin State University was the target of a swatting incident that resulted in guns being drawn in her face in September 2020. Like most victims of swatting, this student victim was unable to see the perpetrators held accountable for their near-deadly actions, as current state law provides for false reporting offenses but does not offer penal guidance or punishment specifically in cases where swatting occurs. S.B. 1056 seeks to address this issue by creating a Class A misdemeanor offense for swatting and providing for certain penalty enhancements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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

S.B. 1056 amends the Penal Code to create the Class A misdemeanor offense of swatting for a person who reports a crime or an emergency or causes any report of a crime or an emergency to be made to a law enforcement officer, law enforcement agency, 9-1-1 service, official or volunteer agency, or any other governmental employee or contractor who is authorized to receive reports of a crime or emergency under the following circumstances:

- the person knows that the report is false;
- the report is reasonably likely to cause an emergency response from a law enforcement agency or other emergency responder; and
- the person makes the report or causes the report to be made with reckless disregard about whether the emergency response by a law enforcement agency or other emergency responder may directly result in bodily harm to any individual.

The bill enhances the penalty for the offense to a state jail felony if the defendant has previously been convicted on two or more occasions of the offense and to a third degree felony if the false report results in an emergency response to a reported crime and a person is killed or suffers serious bodily injury as a proximate result of lawful conduct arising out of that response. The bill increases the punishment for the offense to the next highest category of offense if, in the

trial of the offense, an affirmative finding is made that the offense was committed because of bias or prejudice.

S.B. 1056 authorizes a court to order a defendant convicted of the offense to make restitution to a public agency for the reasonable costs of the emergency response resulting from the false report. The bill establishes that it is not a defense to prosecution for the offense that no physical harm occurred to any person as a result of the false report or that any harm that occurred was to physical property rather than injury to a person. If conduct constituting the offense also constitutes another Penal Code offense, the actor may be prosecuted for either or both offenses. The bill's provisions establishing the offense may not be construed in any manner to conflict with certain provisions of the federal Communications Decency Act or the federal Civil Rights Act.

S.B. 1056 amends the Code of Criminal Procedure to authorize the offense to be prosecuted in any county in which the defendant resides, the false report was communicated, or a law enforcement agency responded to the false report.

S.B. 1056 amends the Family Code to classify conduct constituting the offense as conduct indicating a need for supervision under the juvenile justice code if the child has not been previously adjudicated for conduct constituting the offense.

EFFECTIVE DATE

September 1, 2021.