

**SUBJECT:** Criminal offense for convicted felons to possess body armor

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 6 ayes — Hinojosa, Talton, Green, Kitchen, Martinez Fischer, Shields  
0 nays  
3 absent — Dunnam, Keel, Garcia

**WITNESSES:** For — *Registered, but did not testify:* Dave Smith, Texans for Gun Safety; Cris Andersen, San Antonio Police Officers' Association; Kevin F. Lawrence, Texas Municipal Police Association; Charley Wilkison, Combined Law Enforcement Association of Texas  
  
Against — None

**DIGEST:** HB 84 would amend the Penal Code by adding Section 46.041, making possession of metal or body armor by a convicted felon a third-degree felony (punishable by two to 10 years in prison and an optional fine of up to \$10,000). "Metal or body armor" would be defined as any body covering purposefully designed, made, or adapted to protect a person against gunfire.  
  
HB 84 would take effect on September 1, 2001.

**SUPPORTERS SAY:** HB 84 would help protect law enforcement officers from felons who intended to use body armor to protect themselves while committing crimes. Criminals who wear body armor are more difficult to apprehend because of an added sense of invincibility. When protected by body armor, criminals are able to engage in prolonged shootouts with police, resulting in a greater chance that innocent people will be hurt.  
  
The bill also would help protect law enforcement officers from criminals who purchased body armor to research how best to attack the police. Gang members in Baytown are known to have purchased bulletproof vests similar to what local police officers are wearing, solely to determine what kind of weapons could penetrate the armor.

In criminal hands, body armor poses a direct threat to law enforcement and the public. Law enforcement officials in various parts of Texas have been ambushed by criminals wearing body armor. If officers cannot protect themselves, they cannot protect the public. Body armor represents an important line of defense for law enforcement officers. It should not be the last line of defense for criminals.

Body armor primarily is used to protect someone involved in a potentially violent situation. Convicted felons have lost their right to own guns, often because of violent conduct, and therefore should not have the right to possess body armor.

OPPONENTS  
SAY:

HB 84 could create criminal and civil liability problems for merchants who sold body armor to convicted felons. Current law does not place restrictions on who may buy this armor, and merchants are not required to run any background checks. If HB 84 were enacted and a shopkeeper sold body armor to a convicted felon, the shopkeeper potentially could be charged with a third-degree felony under Chapter 7, Penal Code, which makes a person a party to an offense if the person aids another in committing an offense. Because the offense under HB 84 would be possession of the body armor, the merchant could be held liable for aiding the felon in obtaining that armor. In addition, if the felon later committed a crime while using the body armor, that merchant could be liable for civil penalties.

HB 84 could penalize people who had no criminal intent. A convicted felon living in a bad neighborhood might wear a bulletproof vest while he slept to protect himself from robberies or drive-by shootings. In another example, if a convicted felon were a collector of Civil War-era body armor, he could face prison time for possessing that memorabilia.

OTHER  
OPPONENTS  
SAY:

HB 84 attempts to address the valid concern that law enforcement officials are not adequately protected from being ambushed by criminals wearing body armor. However, this issue would be addressed better by restricting eligibility to purchase body armor to law enforcement officials or by making it illegal to wear body armor during the commission of a crime.