

- SUBJECT:** Interference with duties of a public health or safety official
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Peña, Vaught, Riddle, Escobar, Hodge, Mallory Caraway, Talton
0 nays
2 absent — Moreno, Pierson
- WITNESSES:** For — Elizabeth Love, Harris County Public Health and Environmental Service; (*Registered, but did not testify:* Julie Acevedo, Texas Fire Chiefs; Marcel Elizondo, Texas Environmental Health Association; Lee Lane, Texas Association of Local Health Officials; Mark Mendez, Tarrant County; Terri Pali, Texas Public Health Association; Bill Siebert, Texas Restaurant Association; John Paul Urban, Harris County)
Against — None
- BACKGROUND:** Penal Code sec. 38.15 makes it a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to, with criminal negligence, interrupt, disrupt, impede or interfere with the public duties of peace officers, fire fighters, emergency medical services personnel, and animal control officers.
- DIGEST:** CSHB 2703 would expand the crime of interference with public duties to include interfering with the duties of certain public health and safety officials. The bill would apply to interfering with persons responsible for assessing, enacting, or enforcing public health, environmental, radiation, or safety measures for the state, counties, or cities. The public officials would have to be performing a duty or exercising authority granted to them by the Agriculture Code, Health and Safety Code, Occupations Code, or Water Code.

The bill would take effect September 1, 2007, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 2703 is necessary to give public health and safety workers the same protections given to other officials who must perform their duties in public. Current law protects police officers, emergency services personnel, fire fighters, and animal control officers from interference with their duties but does not protect health and safety workers who are doing similar jobs. For example, workers with a city health department may be inspecting food or sanitation, working on disease control, drinking water safety or abating nuisances. In some cases these workers have faced hostile situations with little protection. These workers are carrying out public duties and deserve the same protection as other public officials.

Current law and CSHB 2703 contain safeguards to ensure that innocent actions against public health and safety workers would not be considered crimes and to ensure that anyone charged with a crime would have to have known the worker was a public official. A person must interrupt, disrupt, impede or interfere with the public health or safety worker to commit the offense, and the act must be done with criminal negligence. Under the bill, the worker would have to be performing a duty imposed by statute. It would be apparent that workers and situations that met these criteria were public officials performing public duties.

CSHB 2703 is designed to deter interference with public health and safety workers and to punish those who do. These public officials should not have to wait until they were assaulted or harmed to be protected. As with all criminal charges, police, prosecutors, and judges would use their discretion and pursue any serious offenses that warranted it.

**OPPONENTS
SAY:**

It may be unfair to expand the offense of interference with public duties to include persons who are not readily identifiable as public officials. Current law applies to officials who, in general, are easily identifiable because of uniforms and the unique situations in which they perform their duties. CSHB 2703 would apply public health and safety workers who may not be wearing uniforms or working during an emergency. In other instances in which offenses and punishments protect a class of persons, there often is a requirement that a defendant know the status of the victim. For example, under the assault statute, the penalty is enhanced if the assault is committed against a person the offender knows is a public servant while the servant is discharging an official duty.

The nature of work performed by health and safety workers, while important, does not warrant the protection given to peace officers and

other similar officials. Any health or safety official who was assaulted or otherwise harmed would be covered by general Penal Code provisions that protect everyone.

NOTES:

The companion bill, SB 239 by Gallegos, was reported favorably, without amendment, by the Senate Criminal Justice Committee on April 18.