

SUBJECT: Enhanced penalty for assault of certain emergency services personnel

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Pena, Vaught, Escobar, Hodge, Mallory Caraway, Pierson
0 nays
3 absent — Riddle, Moreno, Talton

WITNESSES: For — G.K. Sprinkle, Texas Ambulance Association; (*Registered, but did not testify*: Randy Cain, Texas Fire Chiefs Assoc.; David Phillips; Elizabeth Sjoberg, Texas Hospital Assoc.; Ann Travis, City of Houston and Houston Fire Dept.; Charles Wagner)

Against — None

BACKGROUND: Penal Code, sec. 22.01 sets the normal penalty for assault as a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Assault becomes a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) when the victim is:

- a public servant or contractor;
- involved in a dating relationship with the perpetrator;
- a family member of the perpetrator;
- a member of the household of the perpetrator; or
- a security officer.

The perpetrator is presumed to have known the person assaulted was a public servant or a security officer if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or status as a security officer.

DIGEST: CSHB 495 would add emergency services personnel to the class of victims against whom assault would result in a third-degree felony. The actor would have to know that the victim was an emergency services worker during the assault. The actor would be presumed to have known the victim was an emergency services worker if the victim was wearing a

distinctive uniform or badge indicating the person's status as an emergency services worker.

CSHB 495 would include firefighters, police officers and other peace officers, EMS workers, and other individuals who, in the course and scope of employment or as a volunteer, provided services for the benefit of the general public during emergency situations in the definition of "emergency services personnel."

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 495 is needed because current law may not protect adequately emergency services workers under existing protections for public servants. This is because many emergency services personnel are unpaid volunteers.

The bill would provide greater protection for emergency services personnel, who place themselves at risk as part of their routine work or volunteer duties, by increasing the penalty for assault when these workers were the victims. Raising the penalty from a misdemeanor to a felony would have a deterrent effect and would recognize the special status and need for protection of emergency services personnel. The Legislature appropriately has enhanced the penalty for assault on certain categories of individuals such as public servants or family members, and emergency services personnel belong among these protected groups due to the valuable life-saving service they provide.

According to the fiscal note, CSHB 495 would not have a significant fiscal impact to the state.

**OPPONENTS
SAY:**

CSHB 495 is not needed because the existing exemption for public officers and contractors would cover emergency services personnel. Because the law also covers contractors, it clearly is meant to protect anyone doing government work on an official basis.

Public servants and volunteers should be protected by the same laws as others. When the Penal Code was revised in 1993, the Legislature decided there should not be varied treatment of victims subject to similar harm. Other laws, such as obstruction and retaliation, can be used to prosecute someone assaulting an emergency service worker. In such cases, it already is a third-degree felony intentionally or knowingly to harm or threaten to

harm another in retaliation for or on account of the service of the public servant.

Texas cannot afford to enhance criminal penalties when existing punishments are severe. The criminal justice system already faces a resource shortage and incarcerating prisoners for longer periods of time only would strain the system further.

NOTES:

The committee substitute included all emergency services personnel, both paid and volunteer, in the class of victims whose assault would trigger a third-degree felony as opposed to the standard class A misdemeanor.