

SUBJECT: Increasing criminal penalties for certain public transportation offenses

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Hunter

WITNESSES: For — John Jones, Capital Metro; Tremell Brown and Mark Witherell, VIA Metropolitan Transit; (*Registered, but did not testify*: Brent Payne, ATU Local 1091; Jeff Heckler, Brazos Transit District; Jennifer Rodriguez, Brazos Transit District; Guadalupe Cuellar, City of El Paso; Tristen Castaneda, Corpus Christi Regional Transit Authority; Drew Campbell, Denton County Transportation Authority; Eddie Miranda, Metropolitan Transit Authority of Harris County (Houston METRO); James Jones, San Antonio Police Department; Jimmy Rodriguez and James Smith, San Antonio Police Officers Association; Trey Owens, Texas Criminal Justice Coalition; Meredith Greene, Texas Transit Association; Juan Amaya, Bonnie Prosser Elder, and Amalio Soto, VIA Metropolitan Transit)

Against — Emily Gerrick, Texas Fair Defense Project; (*Registered, but did not testify*: Jorge Renaud, Texas Advocates for Justice; Latosha Taylor)

BACKGROUND: Penal Code, ch. 29 classifies robbery as a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) and aggravated robbery as a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000).

Penal Code, ch. 21 governs several sexual offenses and classifies:

- public lewdness as a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000);

- indecent exposure as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000);
- invasive visual recording as a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000); and
- certain other offenses.

Penal Code, ch. 22 governs several assaultive offenses and classifies:

- intentionally threatening another with bodily injury as a class C misdemeanor (maximum fine of \$500);
- intentionally causing bodily injury as a class A misdemeanor;
- sexual assault as a second-degree felony;
- aggravated assault as a second-degree felony; and
- certain other offenses.

DIGEST:

CSHB 2032 would increase the punishment for a sexual offense, assaultive offense, or robbery to the punishment prescribed for the next higher category if it was shown at trial that the offense was committed in a vehicle operated by a local government authority. A vehicle would include a bus, railcar, rolling stock, or other vehicle used by the public for mass transit purposes.

The bill would not apply to an offense for which the punishment prescribed was a first-degree felony or capital felony.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 2032 would increase penalties for offenders who commit certain violent crimes on public transportation vehicles, providing a vital tool to deter violence and enhance safety. These crimes only would include assaultive offenses that were committed intentionally, knowingly, or recklessly and would not include minor accidental incidents. This deterrent is necessary because these vehicles are often small, enclosed spaces, so a violent offense against one person or the driver could easily affect every person in the vehicle and surrounding vehicles.

Concerns that the bill would increase county jail costs are overstated because it would not affect many cases, only those specifically perpetrated on public transportation vehicles. Further, the deterrent factor of increased penalties would balance out the costs because there would be fewer offenders.

OPPONENTS
SAY:

CSHB 2032 unnecessarily and arbitrarily would increase the penalties for an offense committed in a public transportation vehicle, which should not be any harsher than currently classified in law. The language would be too broad by including all assault charges, so small offenses like elbowing somebody in the shoulder on a bus could result in a class B misdemeanor and jail time.

The bill also could be costly to taxpayers by expanding offenses that would carry jail terms and stretching out current jail terms. Raising penalties also would require counties to spend more on indigent defense funds.

NOTES:

The committee substitute differs from the bill as filed in that CSHB 2032 removed language that would have applied the bill to public transportation premises. CSHB 2032 would apply only to public transportation vehicles.

In the fiscal note, the Legislative Budget Board (LBB) states that increasing the penalty for any offense is expected to increase demands on state correctional resources because of longer terms of supervision in the community, longer prison sentences, and additional parolees. Whether the bill would have a negative fiscal impact or a significant impact on correctional populations is indeterminate due to lack of statewide data concerning offense locations, according to the LBB.