

BILL ANALYSIS

Senate Research Center
77R890 KEL-D

H.B. 171
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Criminal Justice
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Engrossed

DIGEST AND PURPOSE

Currently, if an intentionally-set fire does not continue after explosion or ignition and no damage is caused, Texas law states that no crime has been committed. The burning of a place of worship is considered a first-degree felony, and damages under \$20,000 to places of worship or human burial, public monuments, and community centers that provide medical, social, or educational programs are considered a state jail felony. H.B. 171 makes an attempt to destroy property by fire or explosion a second-degree felony, regardless of the continuation of the fire. The bill makes the burning of a place of assembly or habitation a first-degree felony, and the destruction or damage to a public or private elementary school, secondary school, or institute of higher education a state jail felony if the property loss is less than \$20,000. H.B. 171 also describes the method for determining pecuniary loss.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 28.02 (a) and (d), Penal Code, to provide that a person commits an offense if the person starts a fire, regardless of whether the fire continues after ignition, or attempts to start a fire or cause an explosion, with intent to destroy or damage certain structures. Makes nonsubstantive changes. Provides that an offense under this section is a first degree felony if the property intended to be damaged or destroyed by the actor was a habitation or a place of assembly or worship.

SECTION 2. Amends Sections 28.03 (f) and (g), Penal Code, to provide that an offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is less than \$20,000 and the damage or destruction is inflicted on certain places, including a public or private elementary school, secondary school, or institution of higher education. Deletes language referring to the amount of pecuniary loss. Defines "explosive weapon," "firearm," and "institution of higher education." Makes conforming changes.

SECTION 3. Amends Section 28.06, Penal Code, by adding Subsection (f), to provide that if the damage or destruction is caused by a fire or explosion, the amount of pecuniary loss is the amount ascertainable by using the criteria set forth in Subsections (a) through (d) or, if the property is a document with a readily ascertainable market value, by consulting the market, plus any other reasonably foreseeable economic losses to the owner of the property that result from the commission of an offense under this section.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2001.