

BILL ANALYSIS

Senate Research Center
81R28262 GCB-F

C.S.S.B. 1176
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Criminal Justice
5/1/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Section 38.04 (Evading Arrest or Detention), Penal Code, provides that it is a Class B misdemeanor offense for a person to evade arrest or detention unless the person uses a vehicle while in flight, in which case the offense is a state jail felony.

There is no enhancement for persons who have committed the offense on multiple occurrences. It has become advantageous for persons committing offenses with penalties greater than a Class B misdemeanor to run and take the chance of getting away rather than face the offense for which the officer is attempting the arrest. Section 38.08 (Effect of Unlawful Custody), Penal Code, provides that it is a third degree felony for a person to escape if the crime for which the person was arrested or charged is a felony, while there is not a similar provision in the evading arrest statute.

C.S.S.B. 1176 amends current law relating to the punishment prescribed for the offense of evading arrest or detention.

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 Section 38.04(b), Penal Code, to provide that an offense under this section is a Class A, rather than Class B, misdemeanor, except that the offense is a state jail felony if the actor has been previously convicted under this section. Makes a nonsubstantive change.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.