

## **BILL ANALYSIS**

Senate Research Center

S.B. 1056  
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Jurisprudence  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Swatting is the act of falsely reporting an emergency or crime to law enforcement or emergency service with the intent of having an emergency response deployed to a specific location. These false reports have become more frequent and have resulted in mental and physical injuries to the targeted victims and witnesses. This scheme is both costly and dangerous.

S.B. 1056 creates an offense if a person knowingly makes a false report that is reasonably likely to cause an emergency response from a law enforcement agency or other emergency responder and causes the report to be made with reckless disregard about whether the response may result in bodily harm to any individual.

(Original Author's / Sponsor's Statement of Intent)

S.B. 1056 amends current law relating to criminal liability for reporting false information to draw an emergency response and creates an offense.

### **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 Chapter 42, Penal Code, by adding Section 42.0601, as follows:

Sec. 42.0601. FALSE REPORT TO INDUCE EMERGENCY RESPONSE. (a)  
Provides that a person commits an offense if:

- (1) the person makes a report of a criminal offense or an emergency or causes a report of a criminal offense or an emergency to be made to a peace officer, law enforcement agency, 9-1-1 service as defined by Section 771.001 (Definitions), Health and Safety Code, official or volunteer agency organized to deal with emergencies, or any other governmental employee or contractor who is authorized to receive reports of a criminal offense or emergency;
- (2) the person knows that the report is false;
- (3) the report causes an emergency response from a law enforcement agency or other emergency responder; and
- (4) in making the report or causing the report to be made, the person is reckless with regard to whether the emergency response by a law enforcement agency or other emergency responder may directly result in bodily injury to another person.

(b) Provides that an offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if it is shown on the trial of the offense that the defendant has previously been convicted two or more times of an offense under this section; or

(2) a felony of the third degree if the false report was of a criminal offense to which a law enforcement agency or other emergency responder responded and a person suffered serious bodily injury or death as a direct result of lawful conduct arising out of that response.

(c) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under another section of this code, to be prosecuted under either section or both sections.

(d) Prohibits this section from being construed in any manner to conflict with 47 U.S.C. Section 230 or 42 U.S.C. Section 1983.

SECTION 2. Amends Chapter 13, Code of Criminal Procedure, by adding Article 13.40, as follows:

Art. 13.40. FALSE REPORT TO INDUCE EMERGENCY RESPONSE. Authorizes an offense under Section 42.0601, Penal Code, to be prosecuted in any county in which the defendant resides, the false report was made, or a law enforcement agency or other emergency responder responded to the false report.

SECTION 3. Amends Article 42.014(a), Code of Criminal Procedure, to require the judge, in a trial of an offense under certain sections, including under Section 42.0601, Penal Code, to make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed, or intentionally selected the person's property that was damaged or affected as a result of the offense, because of the defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference or by status as a peace officer or judge.

SECTION 4. Amends Article 42.037, Code of Criminal Procedure, by adding Subsection (w), to authorize the court, if a defendant is convicted of an offense under Section 42.0601, Penal Code, to order the defendant to make restitution to an entity for the reasonable costs of the emergency response by that entity resulting from the false report.

SECTION 5. Amends Section 51.03(b), Family Code, to provide that conduct indicating a need for supervision is certain conduct, including, notwithstanding Subsection (a)(1) (relating to the definition of delinquent conduct punishable by imprisonment or by confinement in jail), conduct that violates Section 42.0601, Penal Code, if the child has not previously been adjudicated as having engaged in conduct violating that section. Makes nonsubstantive changes.

SECTION 6. Effective date: September 1, 2021.