

- SUBJECT:** Increasing the penalty for assault of a federal law enforcement officer
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco
- 0 nays
- WITNESSES:** For — Chris Cabrera, National Border Patrol Council; Monique Grame, U.S. Border Patrol; (*Registered, but did not testify:* Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); Scott Leeton, Corpus Christi Police Officers Association, CLEAT; David Sinclair, Game Warden Peace Officers Association; Jose Carlos Gonzalez, Gonzalez & Associates Homeland Security; Jessica Anderson, Houston Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; AJ Louderback, Sheriffs' Association of Texas; Noel Johnson, TMPA; Micah Harmon)
- Against — Michael Cargill, Texans for Accountable Government; (*Registered, but did not testify:* Jose Ramon, Cannabis Open Carry Walks; Cosom; Anthony Sieli; Kory Watkins)
- BACKGROUND:** Penal Code sec. 22.01 establishes the offense of assault, and sec. 22.02 establishes aggravated assault. Assault involving bodily injury is punished as a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) except under certain circumstances in which it is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000). These circumstances include when the offense is committed against a public servant, security officer, or emergency services personnel. Assault is punished as a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if it is committed against a peace officer.
- Aggravated assault involves serious bodily injury or a deadly weapon and is punished as a second-degree felony except under certain circumstances when it is a first-degree felony (life in prison or a sentence of five to 99

years and an optional fine of up to \$10,000). Circumstances that result in the higher penalty include when the crime is committed against a public servant or a security officer.

DIGEST:

HB 27 would increase penalties for assault and aggravated assault when committed against federal law enforcement officers. For assault, the penalty would be increased from a class A misdemeanor to a third-degree felony, and for aggravated assault, the penalty would be increased from a second-degree felony to a first-degree felony. The person committing assault or aggravated assault would have to know that the victim was a federal law enforcement officer. The officer would have to have been lawfully discharging an official duty or the assault would have to have been in retaliation or on an account of an exercise of official power or official duty.

Persons would be presumed to have known that someone was a federal law enforcement officer if the officer was wearing an official uniform or badge.

A federal law enforcement officer would be defined as any officer, agent, or employee of the United States authorized by federal law or by a federal agency to supervise, prevent, detect, or investigate violations of federal criminal law.

HB 27 would take effect September 1, 2019, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

HB 27 would bring penalties for assaulting federal law enforcement officers in line with those for assaulting public servants. Under state law, the penalties for assault and aggravated assault against public servants, peace officers, emergency services personnel, and security officers are increased from the base penalty. However, federal law enforcement officers, such as those working for the U.S. Customs and Border Protection, Federal Bureau of Prisons, and the Drug Enforcement Administration, are not included in these groups. Federal law enforcement officers routinely place themselves at risk for the public and can be

targeted because of their status. They should be afforded the same protections as other public servants. HB 27 is a logical extension of current law that already imposes stiffer penalties when officers are assaulted and would send a message of support to federal law enforcement officers.

Safeguards in current law would ensure the enhanced penalties applied only when appropriate. For example, federal officers would have to be acting lawfully or the assault would have to be committed in retaliation for or on account of an official duty, and the assault would have to meet the definition of an offense under Texas law.

While these assaults could be handled by federal prosecutors, workloads or other reasons can prevent this from occurring. HB 27 would establish another option in these cases. Texas law enforcement officers and prosecutors would retain their discretion on how to handle cases.

**OPPONENTS
SAY:**

All assault victims should be given equal protection when subject to equal harm, and the state should not expand the use of enhanced punishments based on a victim's inclusion in a group. Assault and aggravated assault already are adequately punished based on the type of injuries, and federal law enforcement officers should not be given special protections.