

BILL ANALYSIS

Senate Research Center
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S.B. 1754
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a person taking or attempting to take a weapon from certain officers, investigators, employees, or officials can be charged with a state jail felony or a third degree felony. However, in order to convict, a prosecutor must prove that the taking or attempted taking was done "with the intention of harming the officer, investigator, employee, or official or third person." This current language leaves out any other reason for taking the weapon, including self-harm to the person attempting to take or taking the weapon. Therefore, if the prosecutor is unable to prove this specific intent, the crime did not occur.

S.B. 1754 would eliminate the requirement for specific intent. Specifically, the bill would eliminate the phrase "with the intention of harming the officer, investigator, employee, or official or a third person." Under this bill, a person commits the offense of taking or attempting to take a weapon from an officer if they intentionally or knowingly and with force take or attempt to take an officer's weapon for any reason, other than to protect against the use of excessive force. Therefore, prosecution of the crime would be contingent upon the action itself, regardless of intent.

As proposed, S.B. 1754 amends current law relating to the prosecution of the offense of taking or attempting to take a weapon from certain officers, investigators, employees, or officials.

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 38.14(b), Penal Code, to delete existing text providing that a person commits an offense if the person with the intention of harming the officer, investigator, employee, or official or a third person, intentionally or knowingly and with force takes or attempts to take from a peace officer, federal special investigator, employee or official of a correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer the officer's, investigator's, employee's, or official's firearm, nightstick, stun gun, or personal protection chemical dispensing device.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.