

SUBJECT: Penalty for assault against or by public servants

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Place, Talton, Farrar, Greenberg, Pickett, Pitts
0 nays

3 absent — Hudson, Nixon, Solis

WITNESSES: None

DIGEST: HB 1753 would reclassify assault (intentionally, knowingly or recklessly causing bodily injury to another) from a Class A misdemeanor (maximum penalty a year in jail and a \$4,000 fine) to a third-degree felony (maximum penalty 10 years in prison and a \$10,000 fine) if committed either by a public servant acting officially or against someone the offender knew was a public servant who was lawfully discharging official duties or in retaliation for or on account of those official duties.

A person would be presumed to know that another person was a public servant if the servant was wearing a uniform or badge.

HB 1753 would take effect September 1, 1995.

SUPPORTERS SAY: Increasing the penalty for assault both *by* or *against* public servants would help protect public employees such as prison guards and teachers who have risky jobs while at the same time holding public servants to a higher standard of responsibility for official actions.

Before 1993 the Penal Code had several individual provisions for assault against specific types of public servants such as teachers and a section concerning assault on law enforcement and corrections officers. The Penal Code still imposes harsher penalties for *aggravated* assault when it is against or by a public officer: a first-degree felony compared to a second-degree felony. When the special provision regarding assault on public servants was eliminated from the Penal Code in 1993, the news that assault

of a prison guard was only a misdemeanor reportedly raced through prisons.

**OPPONENTS
SAY:**

It is unnecessary to enhance the penalty for assault by or against a public servant. Public servants should be held to the same standards and be protected by the same statutes as other persons. When the Penal Code was revised in 1993 the Legislature decided there should not be varied treatment of victims subject to similar harm. Other laws such as obstruction and retaliation can be used to prosecute someone assaulting a public servants such as a prison guard. When obstruction or retaliation is involved, it is already a third-degree felony to intentionally or knowingly harm or threaten to harm another in retaliation for on account of the service of a public servant. HB 1753 proposes a major change by enhancing the penalty for assault of and by a specific class of persons from a misdemeanor to a felony.

NOTES:

HB 2727 by Place, approved by the House April 5, included provisions identical to HB 1753.