

SUBJECT: Allowing district attorneys, some bailiffs to carry guns in courts, elsewhere

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 7 ayes — Driver, Jackson, Burnam, Frost, Hegar, Hupp, Veasey
0 nays

WITNESSES: For — Matt Bingham
Against — None

BACKGROUND: Under Penal Code, sec. 46.02, it is an offense for a person intentionally, knowingly, or recklessly to carry a handgun, illegal knife, or club on or about their person. The offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

Sec. 46.03 lists places where weapons are prohibited. They include courts and court offices, unless under written authorization of the court, schools, polling places on election day or during early voting, racetracks, secured areas of airports, and on the site of a state execution on execution day.

Penal Code sec. 46.15 exempts certain people from sec. 46.02 and sec. 46.03, including judges who are licensed to carry concealed handguns and parole and probation officers engaged in discharging their duties.

Sec. 46.035 lists places in which it is prohibited for concealed handgun licensees to carry a handgun. These include certain businesses with alcoholic beverage licenses or permits, school or professional sporting events, correctional facilities, hospitals, nursing homes, amusement parks, places of worship, and meetings of government entities.

DIGEST: CSHB 2110 would add district attorneys, criminal district attorneys, and some bailiffs who are licensed to carry concealed handguns to the list of persons to whom Penal Code secs. 46.02 and 46.03 did not apply. A bailiff would have to be designated as a judicial officer security escort and be escorting a judge.

Judges presiding in courts in which bailiffs were not licensed peace officers could designate the bailiff as a judicial officer security escort. This would have to be done in writing and delivered to county sheriffs, who would keep copies in their files.

A bailiff who was licensed to carry a handgun and designated as judicial officer security escort could raise a defense to prosecution for the offense of unlawfully carrying a licensed, concealed handgun in the places listed in Penal Code sec. 46.035 if the bailiff was escorting a judge at the time.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 2110 is necessary to ensure that district attorneys and bailiffs can adequately protect themselves from dangers that arise from their public service jobs. The state has a responsibility to help make these jobs as safe as possible, and CSHB 2110 would give district attorneys and some bailiffs more options for protecting themselves and their families.

Due to the confrontational nature of their jobs, district attorneys and bailiffs often are under the threat of violent retaliation from people they encounter in the course of performing their duties, such as disgruntled former prisoners. Recent courthouse shootings in Tyler and in Atlanta, Georgia illustrate the danger involved with these jobs. CSHB 2110 would help address this situation by allowing district attorneys and certain bailiffs to carry concealed handguns into courtrooms and other places where they currently are banned.

The bill would allow district attorneys to carry weapons in other places where they are generally banned because dangers to these court officers are not limited to the courtroom. District attorneys routinely receive death threats or threats of violence that could be carried out against them outside of the courtroom. If CSHB 2110 limited district attorneys to carrying guns in courthouses, gang members, family members of criminal defendants, and others could seek out district attorneys in places outside the courtroom where they were vulnerable.

Many other persons besides inmates can smuggle guns into courtrooms, which can present a danger. Proposals to take away guns from district

attorneys or bailiffs fail to recognize this more global danger. Courthouse security varies widely throughout the state, and no security system is impenetrable to someone determined to smuggle in a gun.

CSHB 2110 would authorize certain bailiffs to carry handguns in limited situations to ensure the security of all courtrooms and judges. In many courts, bailiffs are commissioned peace officers who can carry guns as they perform their courtroom duties. However, in some rural areas it can be difficult to find bailiffs who also are commissioned peace officers. To address this situation, CSHB 2110 would allow bailiffs designated as judicial officer security escorts to carry guns while in the process of escorting judges. To ensure that sheriffs were aware of which of their bailiffs might be carrying weapons, judges would have to have to notify the county sheriff that a bailiff had been designated as a security escort.

CSHB 2110 is a logical extension of current law that allows judges to carry concealed handguns in courtrooms and elsewhere. This law has not led to an increase in courtroom violence or violence by judges outside of the courtroom, and there is no reason to expect that CSHB 2110 would be different. Just like the law governing judges, this bill would require that district attorneys and bailiffs be licensed to carry concealed handguns. The requirements of the license would ensure that they were trained and safely could handle a firearm.

OPPONENTS
SAY:

Allowing district attorneys and some bailiffs to carry handguns in courtrooms and other public places where they generally are banned would not solve court-related violence but potentially could exacerbate it. Allowing more guns in courthouses could lead to more violence. In the Atlanta courthouse shooting, for example, a criminal defendant took the gun from a court officer. If district attorneys and certain bailiffs were allowed to carry guns in the courtroom, others such as defense attorneys or court personnel could request the same privilege, further compromising courtroom safety. Beefing up courthouse security would be a better way to address courthouse violence.

District attorneys and bailiffs who want to carry concealed handguns are free to obtain licenses and carry them wherever concealed weapons are authorized generally. Creating numerous exceptions to the general prohibition against carrying handguns makes the law meaningless and difficult for citizens to understand.

OTHER
OPPONENTS
SAY:

HB 2110 would not go far enough. It should include assistant district attorneys, whose jobs also place them in danger, and county attorneys who handle felony cases. The bill also should make district attorneys exempt from Penal Code, sec. 46.035 restrictions on where concealed handgun licensees can carry guns so that they could protect themselves in all situations.

NOTES:

The committee substitute added the provisions dealing with bailiffs.