

- SUBJECT:** Higher penalty for tampering with a corpse as evidence
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Peña, Vaught, Riddle, Escobar, Hodge, Mallory Caraway, Pierson, Talton
- 0 nays
- 1 absent — Moreno
- WITNESSES:** For — Sharon Cave; William Hon; (*Registered, but did not testify:* Mike Little, District Attorney, Liberty County)
- Against — (*Registered, but did not testify:* Nicole Porter, ACLU of Texas)
- BACKGROUND:** Under Penal Code, sec. 37.09, a person commits the offense of tampering with or fabricating evidence if the person:
- knowing that an investigation or official proceeding is pending or in progress, alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or proceeding; or
 - knowing that an offense has been committed, tampers with or fabricates, alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in any subsequent investigation of or official proceeding related to the offense.
- This offense is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).
- DIGEST:** HB 872 would establish the penalty for altering, destroying, or concealing a human corpse that was evidence of a crime as a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000).

HB 872 would define human corpse by reference to Penal Code, sec. 42.08(c), as:

- any portion of a human corpse,
- the cremated remains of a human corpse, or
- any portion of the cremated remains of a human corpse.

The bill also would amend sec. 37.09(d)(2) to replace “human remains” with “human corpse.”

HB 872 would take effect on September 1, 2007, and would apply only to an offense committed on or after the effective date. An offense would be committed before the effective date if any element of the offense was committed before that date.

**SUPPORTERS
SAY:**

Unlike other evidence, human remains have an important social and psychological value to the family and community of the deceased. HB 872 properly would punish as the serious crime that it is the reprehensible act of tampering with or hiding corpses that are evidence of criminal activity. When a criminal hides a corpse, the family and the community of the deceased person are denied not only a burial but the closure that so many victim groups say is critical to the healing process. Also, raising the penalty to a second-degree felony would give prosecutors a larger penalty range and more bargaining power when they are trying to find a body. According to the Legislative Budget Board, HB 872 would have no significant fiscal implication to the state.

**OPPONENTS
SAY:**

HB 872 is unnecessary. Those committing the crime of tampering with or hiding a corpse are likely also to have committed other more serious offenses for which they could be prosecuted. Current law already is very harsh with those who tamper with evidence because it is punished as a third-degree felony. Texas cannot afford penalty enhancements when its prison system already is operating at capacity.

NOTES:

The companion bill, SB 1393 by Nichols, has been referred to the Senate Criminal Justice Committee.