

- SUBJECT:** Punishment for the offense of aggravated assault
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Gallego, Christian, Fletcher, Kent, Miklos, Moody, Pierson, Riddle, Vaught
- 0 nays
- 2 absent — Hodge, Vo
- WITNESSES:** For — Pete Acosta; Lynn Beard, Abilene Police Department; (*Registered, but did not testify*: Gary Bone, Abilene Police Department)
- Against — (*Registered, but did not testify*: Colleen McGue, American Civil Liberties Union of Texas)
- BACKGROUND:** Under Penal Code, ch. 22 a person commits assault if the person:
- intentionally, knowingly, or recklessly causes bodily injury to another, including the person’s spouse;
 - intentionally or knowingly threatens another with imminent bodily injury, including the person’s spouse; or
 - intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.
- A person commits aggravated assault if the person commits assault and cause serious bodily injury to another, including the person’s spouse, or uses or exhibits a deadly weapon during the commission of the assault.
- An offense is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000). However, an offense 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) if the offense is committed:
- by an actor using a deadly weapon during the assault and causing serious bodily injury to a family or household member or someone with whom the actor has a dating relationship;

- by a public servant acting in the capacity of the office or employment;
- against a person the actor knows is a public servant during that person's discharge of official duty, or in retaliation for or because of an exercise of official power or performance of an official duty;
- in retaliation against or because of a person's report of a crime, or service as a witness, prospective witness or informant; or
- against a person the actor knows is a security officer during the officer's performance of security duties; or

DIGEST:

HB 176 would amend the list of circumstances under which an aggravated assault was a first-degree felony to include when the actor knowingly discharged a firearm at or in the direction of a habitation, building, or vehicle, was reckless as to whether the habitation, building, or vehicle was occupied, and caused serious bodily injury to another.

The bill would take effect September 1, 2009, and would apply only to offenses committed on or after this date.

**SUPPORTERS
SAY:**

By making a drive-by shooting a first-degree felony, HB 176 would recognize the severe nature of this crime and punish it accordingly. Currently, a drive-by shooting that injures but does not kill anyone is a second-degree felony, even if the injury was as severe as permanent paralysis. This type of violence is traumatic, especially to children, and destroys a person's ability to feel safe in that person's own home. The bill would deter the committing of this serious crime by increasing the offender's accountability.

**OPPONENTS
SAY:**

Providing a penalty enhancement is generally not an effective deterrent. The cost of incarcerating offenders would be an additional financial burden and would divert resources from other important efforts that could do more to reduce recidivism or promote prevention.