

SUBJECT: Increasing penalties for obstruction or retaliation against public servant

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

WITNESSES: For — Susan Harris; (*Registered, but did not testify:* Christine Wright, City of San Antonio; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; Frederick Frazier, Dallas Police Association/FOP716 State FOP Director; James Parnell, Dallas Police Association; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, HPOU; James Smith, San Antonio Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; Tom Maddox, Sheriffs Association of Texas; Chris Gatewood, Smith County District Attorney; John Wilkerson, Texas Municipal Police Association; John Chancellor, Texas Police Chiefs Association)

Against — None

On — (*Registered, but did not testify:* Shannon Edmonds, Texas District and County Attorneys Association; Thomas Parkinson)

BACKGROUND: Penal Code sec. 36.06 makes obstruction or retaliation a criminal offense. It is an offense to intentionally or knowingly harm or threaten to harm another by an unlawful act in retaliation for or on account of the service or status of another as:

- a public servant, witness, prospective witness, or informant; or
- a person who has reported or who the actor knows intends to report the occurrence of a crime.

It also is an offense to prevent or delay the service of another as a public servant, witness, prospective witness, or informant or as a person who has

reported or who the actor knows intends to report the occurrence of a crime.

Offenses are third-degree felonies (two to 10 years in prison and an optional fine of up to \$10,000), except that the offense is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if:

- the victim of the offense was harmed or threatened because of the victim's service or status as a juror; or
- the conduct involves retaliation and results in the bodily injury of a public servant or a member of a public servant's family or household.

"Public servant" has the meaning assigned by Penal Code sec. 1.07, which defines the term as a person elected, selected, appointed, employed, or otherwise designated as one of the following:

- an officer, employee, or agent of government;
- a juror or grand juror;
- an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;
- an attorney at law or notary public when participating in the performance of a governmental function;
- a candidate for nomination or election to public office; or
- a person who is performing a governmental function under a claim of right although the person is not legally qualified to do so.

Concerns have been raised that current law does not give adequate protection under the obstruction and retaliation offenses to all public servants, including judges.

DIGEST: HB 285 would expand when the second-degree felony punishment for obstruction and retaliation was imposed to include harming or threatening the victim because of the victim's service or status as public servant.

The bill would take effect September 1, 2021, and would apply to offenses committed on after that date.