

SUBJECT: Increasing the penalty for certain offenses of aggravated assault

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, Morales, Schatzline
0 nays

WITNESSES: For — Jett Smith, Erath County District Attorney’s Office; Denise DeForest; Jessica Hogland; Brandi Todd; (*Registered, but did not testify*: Jennifer Tharp, Comal County Criminal District Attorney; Jennifer Szimanski, Combined Law Enforcement Associations of Texas (CLEAT); James Parnell, Dallas Police Association; Joe Morris, Game Warden Peace Officers Association; Ray Hunt, Houston Police Officers' Union; Carlos Ortiz, San Antonio Police Officers’ Association; Buddy Mills, Sheriffs’ Association of Texas; John Wilkerson, Texas Municipal Police Association (TMPA); Jose Escribano, Travis County Constable Precinct 3; James DeForest; Johnie Hogland; David Kohlrr; Thomas Parkinson)

Against — (*Registered, but did not testify*: Susan Stewart)

BACKGROUND: Penal Code sec. 22.02(b) establishes the conditions under which a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) of aggravated assault becomes a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000). Under this section, an offense of aggravated assault is a first-degree felony if an individual used a deadly weapon during the assault and caused serious bodily injury to a member of their family, household, or to someone with whom they are in a dating relationship, as defined under Family Code sec. 71.

DIGEST: HB 28 would add to the conditions under which a second-degree felony of aggravated assault becomes a first-degree felony. Under the bill, the offense would be a first-degree felony if the offender used a deadly weapon during the assault and caused a traumatic brain or spine injury to

another individual that resulted in a persistent vegetative state or irreversible paralysis. The penalty would be increased regardless of the victim's relationship with the offender.

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

HB 28 would allow district attorneys to prosecute assailants to a greater extent by enhancing the punishment for aggravated assault that causes paralysis. These crimes are already classified as first-degree felonies when the assailant has an established relationship with the victim. However, in cases where the attacker is a stranger, prosecutors are unable to seek a more appropriate sentence for these violent crimes. Victims and their families can only seek a second-degree felony charge, which carries a maximum sentence of 20 years in prison. For crimes that cause permanent damage and suffering to victims, perpetrators should receive a higher penalty. More equitable sentencing would give victims peace of mind and a greater sense of justice. The bill also could deter future offenders from attacking strangers and increase public safety.

**CRITICS
SAY:**

No concerns identified.