

## **BILL ANALYSIS**

Senate Research Center  
86R28878 TSS-D

C.S.H.B. 1028  
By: Guillen (Huffman)  
State Affairs  
5/10/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

It has been suggested that the penalties for certain burglary and arson offenses committed in areas declared a state of disaster or subject to an emergency evacuation order are too lenient given the vulnerability of residents already impacted by the disaster. H.B. 1028 seeks to address this issue by increasing the penalties for certain offenses committed in these areas. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1028 amends current law relating to increasing the criminal penalties for certain offenses committed in a disaster area or an evacuated area.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 12.50(b) and (c), Penal Code, as follows:

(b) Provides that the increase in punishment authorized by this section (Penalty if Offense Committed in Disaster Area or Evacuated Area) applies only to an offense under:

- (1) makes no changes to this subdivision;
- (2) Section 28.02 (Arson);
- (3) creates this subdivision from existing text and makes no further changes;
- (4) redesignates existing Subdivision (3) as this subdivision and makes no further changes;
- (5) Section 30.03 (Burglary of Coin-Operated or Coin Collection Machines);
- (6) Section 30.04 (Burglary of Vehicles); and
- (7) Section 30.05 (Criminal Trespass); and
- (8) redesignates existing Subdivision (4) as this subdivision and makes no further changes.

(c) Provides that if an offense listed under Subsection (b)(1) (relating to the offense of assault), (5), (6), (7), or (8) (relating to the offense of theft), rather than under Subsection (b)(1) or (4) (relating to the offense of theft), is punishable as a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. Prohibits the punishment for an offense, if the offense listed under Subsection (b)(2), (4), or (8), rather than under Subsection (b)(3) (relating to the offense of burglary) or (4), is punishable as a felony of the first degree, from being increased under this section.

SECTION 2. Repealer: Section 12.50(d) (relating to a defense to a charge of theft if the conduct in question meets certain elements of necessity), Penal Code.

SECTION 3. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4. Effective date: September 1, 2019.