

BILL ANALYSIS

Senate Research Center
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H.B. 2366
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Police officers out protecting and keeping order during marches and protests deserve the right to be protected from harm. Riot activity has increased across the nation and has led to other criminal activity resulting in danger to persons and property. Texas needs to remain a law-and-order state. This legislation will provide needed protection for law enforcement.

The penalty for the use of lasers against law enforcement officers is not severe enough.

- The use of laser pointers is already a criminal violation, however, it is punishable only as a Class C offense.
- Individuals with lasers have targeted law enforcement officers. This includes officers working protests and officers flying helicopters over municipalities.
- The injuries caused by lasers can be significant, including blindness.
- Current penalties do not match the seriousness of the potential danger and injuries posed to officers.

This bill increases the penalties for using a laser against a law enforcement officer.

- This bill makes the penalty a:
 - third degree felony if it causes bodily injury to the officer; and
 - first degree felony if it causes serious bodily injury to the officer.

Commercial grade fireworks have been used during protests against officers. These have harmed both officers and peaceful protestors alike.

- Texas law currently prohibits the exploding or ignition of fireworks within 600 feet of a church, hospital, school, and other certain areas. Violation is a Class C misdemeanor.

This bill would define "consumer firework" and "fireworks" to match federal regulations and strengthen the penalty for using fireworks at protests.

- The bill creates the offense of unlawful use of fireworks, which occurs when a person explodes or ignites fireworks with the intent to:
 - interfere with lawful performance of an official duty of a peace officer;
 - flee from a person the actor knows is a peace officer; or
 - cause bodily injury to a person the actor knows is a peace officer lawfully discharging their official duty.
- This offense is a state jail felony unless the firework is not a consumer firework, in which case the offense is a second degree felony.
- If serious bodily injury to a law enforcement officer results, it is a first degree felony.

H.B. 2366 amends current law relating to criminal conduct that endangers law enforcement, creates a criminal offense and increases a criminal penalty.

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 Section 42.13, Penal Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Provides that an offense under Section 42.13 (Use of Laser Pointers) is a Class C misdemeanor, except that the offense is a felony of the third degree if the conduct causes bodily injury to the officer or is a felony of the first degree if the conduct causes serious bodily injury to the officer.

(d) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section or the other law, but not both.

SECTION 2. Amends Title 10, Penal Code, by adding Chapter 50, as follows:

CHAPTER 50. FIREWORKS

Sec. 50.01. DEFINITIONS. Defines "consumer firework," "fireworks," and "law enforcement officer."

Sec. 50.02. UNLAWFUL USE OF FIREWORKS. (a) Provides that a person commits an offense if the person explodes or ignites fireworks with the intent to interfere with the lawful performance of an official duty by a law enforcement officer, or with the intent to flee from a person the actor knows is a law enforcement officer attempting to lawfully arrest or detain the actor.

(b) Provides that, except as provided by Subsections (c) and (d), an offense under this section is a state jail felony.

(c) Provides that an offense under this section that involves any firework that is not a consumer firework is a second degree felony.

(d) Provides that, notwithstanding Subsection (c), an offense under this section is a felony of the first degree if the offense causes serious bodily injury to a person the actor knows is a law enforcement officer while the law enforcement officer is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a law enforcement officer.

(e) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.