

BILL ANALYSIS

Senate Research Center
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H.B. 2781
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised that courts are unable to assess the appropriate punishments for mass shooting crimes where people are hurt or injured, but not killed, due to the lack of a definition for mass shooting in state law. Incidents where four or more people are targeted or injured that do not result in the death of victims are charged as assaults with a deadly weapon, which is a second degree felony and carries a sentence range from two to 20 years. In addition, these offenses are ineligible to be served consecutively when arising from the same criminal episode.

H.B. 2781 seeks to address these concerns by defining a mass shooting, increasing the penalty for this conduct to a first degree felony, and allowing the stacking of sentences upon conviction.

H.B. 2781 amends the Penal Code to increase the penalty for aggravated assault for an actor who commits the assault as part of a mass shooting from a second-degree felony to a first degree felony. The bill requires sentences for a person found guilty in a single criminal action of more than one offense that arises out of the same criminal episode to run consecutively if each sentence is for a conviction of an aggravated assault that is committed as part of a mass shooting.

The bill makes a defendant's right to severance when two or more offenses have been consolidated or joined for trial inapplicable to a prosecution for such assault offenses unless the court determines that the defendant or the state would be unfairly prejudiced by a joinder of offenses, in which event the judge may order the offenses to be tried separately or order other relief as justice requires.

H.B. 2781 defines "mass shooting" as a person's discharge of a firearm to cause serious bodily injury or death, or to attempt to cause serious bodily injury or death, to four or more persons during the same criminal transaction or during different criminal transactions but pursuant to the same scheme or course of conduct

H.B. 2781 amends current law relating to the prosecution of and punishment for an aggravated assault occurring as part of a mass shooting, 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 1.07(a), Penal Code, by adding Subdivision (30-a), as follows:

(30-a) Defines "mass shooting" for purposes of the Penal Code to mean a person's discharge of a firearm to cause serious bodily injury or death, or to attempt to cause serious bodily injury or death, to four or more persons during the same criminal transaction or during different criminal transactions but pursuant to the same scheme or course of conduct.

SECTION 2. Amends Section 3.03, Penal Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires that the sentences, when the accused is found guilty of more than one offense arising out of the same criminal episode prosecuted in a single criminal action, except as provided by Subsections (b) (relating to authorizing the sentences to run concurrently or consecutively if the sentence is a conviction for certain offenses) and (c), rather than except as provided by Subsection (b), run concurrently. Makes a nonsubstantive change.

(c) Provides that if in a single criminal action the accused is found guilty of more than one offense under Section 22.02 (Aggravated Assault) that arises out of the same criminal episode, the sentences run consecutively if each sentence is for a conviction of an assault punishable as a felony of the first degree under Section 22.02(b)(4) (relating to an assault as part of a mass shooting).

SECTION 3. Amends Section 3.04(c), Penal Code, as follows:

(c) Provides that the right to severance under Section 3.04 (Severance) does not apply to a prosecution for offenses described by Section 3.03(b) or (c), rather than offenses described by Section 3.03(b), unless the court determines that the defendant or the state would be unfairly prejudiced by a joinder of offenses, in which event the judge is authorized to order the offenses to be tried separately or is authorized to order other relief as justice requires.

SECTION 4. Amends Section 22.02(b), Penal Code, as follows:

(b) Provides that an offense under Section 22.02 is a felony of the second degree, except that the offense is a felony of the first degree under certain circumstances, including if the actor commits the assault as part of a mass shooting. Makes nonsubstantive changes.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2021.