

SUBJECT: Making murder of emergency medical technicians a capital offense

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Place, Talton, Dunnam, Galloway, Hinojosa, Nixon
0 nays
3 absent— Farrar, Keel, A. Reyna

WITNESSES: For — Mike Sherwood, Texas Ambulance Association, Rural/Metro Ambulance
Against — None

BACKGROUND : Murder — intentionally or knowingly causing the death of an individual — is a first degree felony punishable by life in prison or a sentence of five to 99 years in prison and a fine of up to \$10,000. Penal Code sec. 19.03 makes certain murders capital offenses, which are punishable by the death penalty or life in prison, defined as at least 40 calendar years, without consideration of good conduct time, before becoming eligible for parole. The Board of Pardons and Parole may grant parole to a capital felon only upon a two-thirds vote of the entire 18-member board. Persons given the death sentence are not eligible for parole.

DIGEST: HB 61 would add to the list of capital offenses the murder of an emergency care attendant or emergency medical technician acting under lawful discharge of an official duty if the person knew the victim was an emergency care attendant or emergency medical technician.
HB 61 would take effect September 1, 1997.

SUPPORTERS SAY: HB 61 would treat murders of emergency care attendants and medical technicians the same way that murders of peace officers and fire fighters are treated since emergency care personnel are subject to the same dangers in their jobs helping the public. Emergency care personnel are often called to the same crime or fire scene as peace officers and fire fighters, and they deserve the same protections. These medical personnel are not given the

choice of placing themselves in potential danger to help the public — they are required to do this as part of their job. Murder of persons who are trying to help others as part of their official duties is a reprehensible act that deserves the punishments reserved for capital felons. HB 61 would apply only to cases where emergency medical personnel were murdered while carrying out official duties and if the defendant know that the person was an emergency care attendant or medical technician.

The U.S. Supreme Court requires that there be a rational basis for imposing the death penalty. Someone who intentionally kills emergency medical care personnel kills someone who is helping others by giving life-saving emergency medical care and deserves the death penalty just as much as the person who kills a police officer or fire fighter. HB 61 would withstand this constitutional test.

OPPONENTS
SAY:

There is no justification for adding the murder of emergency medical care personnel to the list of capital offenses. There has not been a rash of murders of emergency medical personal that would justify this change. As the list of offenses that can be considered for capital punishment is expanded, it could appear that other persons or groups not included on the list are less valuable members of society who deserve less protection.

OTHER
OPPONENTS
SAY:

Adding to the list laundry list of capital offenses would create a danger that the whole system may be struck down by the U.S. Supreme Court as unconstitutional. Some 20 years ago the court ruled that capital punishment laws were too broad and arbitrary, and Texas had to rewrite its statute. So far, the Texas statute has withstood attack precisely because of the narrow range of offenses that may be considered for capital punishment. Any tinkering with the list may trigger a claim that could undo the entire section.