

SUBJECT: Penalty for arson involving a place of worship

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Place, Talton, Dunnam, Galloway, Hinojosa, Keel, Nixon, A. Reyna

0 nays

1 absent — Farrar

SENATE VOTE: On final passage, March 3 — voice vote

WITNESSES: For — Keely R. Collier, National Association for the Advancement of Colored People (NAACP); David Mintz, Texas Coalition of Jewish Community Relations Councils; Frank Garrett, Jr.

Against — None

BACKGROUND
:
Arson — starting a fire or causing an explosion with intent to destroy or damage a building — is a second-degree felony, with a penalty of two to 20 years in prison and an optional fine of up to \$10,000. If bodily injury or death is suffered by any person, the offense is a first-degree felony, with a penalty of life in prison or five to 99 years in prison and an optional fine of up to \$10,000. Intent is determined by whether the person starting the fire was reckless about whether the burning would endanger the life of an individual or the property of another or knew that the building was on another's property or within another's property, within the limits of an incorporated city or town, insured, or subject to a mortgage or other security interest.

DIGEST: SB 78 would make arson a first-degree felony if the person knew that the property intended to be damaged or destroyed was a place of worship.

SB 78 would take effect September 1, 1997.

SUPPORTERS
SAY:

SB 78 is necessary to help deter the burning of places of worship in Texas, to appropriately punish persons who commit this terrible act, and to send a message that the state will not tolerate attacks on places of worship. Burning a church, synagogue, mosque, temple or other place of worship is a serious offense against all people of faith and an attack on religious freedom that should carry a more serious penalty than that given for regular arson. The punishment established by SB 78 for burning a place of worship would be in line with the seriousness of the offense.

Arson committed against churches and other places of worship has been on the rise. From January 1995 through 1996, 318 churches in the United States were burned; Texas alone had 63 suspicious fires at places of worship. In April 1997, two more Texas churches were struck by fires. Although SB 78 would cover all places it worship, it is especially important to African-Americans who have seen a great number of their churches destroyed by fires. The state should take action against these atrocities since this trend shows no sign of abating.

By helping to protect places of worship, SB 78 would recognize the important role religion plays in the lives of Texans and the duties places of worship often assume to provide such social services as food and shelter to the poor, health care, education, scouting, counseling and more. Arson can devastate a congregation, especially small ones that may have difficulty rebuilding their place of worship. A fire destroys more than bricks and mortar — it also destroys a sanctuary that is a symbol of unity and peace.

Some churches have lost fire insurance coverage after being hit by arson, and SB 78 could help places of worship obtain and keep insurance coverage and receive loans from lending institutions.

SB 78 would give Texas a strong arson laws concerning places of worship and would set an example for other states to follow. The U.S. Congress recently increased the federal penalty for damaging religious property that causes injury.

Although the 1993 Penal Code established broad categories and general provisions, in this situation, the framework is inadequate since arsonists are targeting churches and other buildings specifically because they are places

of worship and to harass and intimidate persons who belong to the groups that meet there. SB 78 would be in line with other sections of the Penal Code that deal with unique circumstances. For example, the crime of criminal mischief is punished more harshly if it is inflicted on a place of worship or human burial.

**OPPONENTS
SAY:**

The careful balance of offenses and penalties created in the 1993 Penal Code should not be distorted with exceptions for special circumstances. The new Penal Code was carefully crafted to encompass broad language and eliminate special provisions.

Arson committed against a place of worship should carry the same penalties as arson against other types of property. Singling out places of worship for special penalties could lead to other entities, such as schools or day care centers, asking for the same protections. The penalty for arson, a second-degree felony, is already enhanced to a first-degree felony if bodily injury or death is suffered; it would distort the rank of penalties to punish property damage as harshly as arson that causes bodily injury.

**OTHER
OPPONENTS
SAY:**

SB 78 would not go far enough; it should include an increased penalty for arson that damaged or destroyed a human burial. This would give additional protection from arson to cemeteries, which are often associated with places of worship.