

- SUBJECT:** Two to 40 years in prison for attempted homicide
- COMMITTEE:** Criminal Jurisprudence — favorable, with amendment
- VOTE:** 6 ayes — Hinojosa, Dunnam, Green, Nixon, Smith, Wise
0 nays
3 absent — Garcia, Keel, Talton
- WITNESSES:** For — Jeri Yenne
Against — None
- BACKGROUND:** Penal Code, sec. 15.01 makes it a criminal offense to attempt to commit a criminal offense. Criminal attempt is punished as one category lower than the offense attempted.
- Criminal homicide includes murder, capital murder, manslaughter, and criminally negligent homicide. Murder is a first-degree felony, punishable by life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000, or a second-degree felony, punishable by two to 20 years in prison and an optional fine of up to \$10,000. Manslaughter is a second-degree felony. Criminally negligent homicide is a state jail felony, punishable by 180 days to two years in a state jail and an optional fine of up to \$10,000. Capital murder is punishable by the death penalty or life in prison.
- DIGEST:** HB 2112, as amended, would make attempted criminal homicide a felony punishable by a prison term of two to 40 years and an optional fine of up to \$10,000.
- This bill would take effect September 1, 1999, and would apply only to offenses committed on or after that date.
- SUPPORTERS SAY:** HB 2112 would help bring balance to the Penal Code by allowing appropriate punishments for attempted homicide. Currently, aggravated assault is generally a second-degree felony, the same punishment that a person could receive for attempted murder. This is out of proportion, especially in view of

the increased level of violence being seen in attempted homicides — for example, cases of victims being set on fire.

HB 2112 would let attempted homicides be punished more appropriately by allowing the discretion for a wide range of punishment — from two to 40 years in prison. Criminals who do not pull off a murder because of their incompetency should not necessarily get a punishment one degree lower than if they had succeeded.

The Legislature has made many adjustments to the 1993 Penal Code revisions when circumstances warranted. The offense of murder is so serious that attempted murder deserves a special penalty.

**OPPONENTS
SAY:**

The 1993 Penal Code revisions imposed broad provisions designed to apply to categories of offense. It would be inappropriate to craft an individual penalty for one type of criminal attempt.

HB 2112 could create its own unfair punishment by allowing someone convicted of attempted homicide to be punished with 40 years in prison while a person convicted of murder could receive less prison time.

NOTES:

The committee amendments would make the penalty apply to all criminal homicide instead of only to first-degree murder and reduce the proposed maximum penalty from 60 years to 40 years.