

**SUBJECT:** Creating criminal penalties for training to commit violent civil disorder

**COMMITTEE:** Criminal Jurisprudence — committee substitute recommended

**VOTE:** 5 ayes — Hinojosa, Dunnam, Garcia, Kitchen, Martinez Fischer  
1 nay — Talton  
3 absent — Keel, Green, Shields

**WITNESSES:** For — Burton G. Manne, Anti-Defamation League, Southwest Regional Office; *Registered but did not testify:* Dave Smith, Texans for Gun Safety  
Against — None  
On — Adam Dollinger; Don Loucks; *Registered but did not testify:* Gary Stone, Texas Department of Public Safety

**BACKGROUND:** Government Code, sec. 431.010 prohibits a body of persons other than the regularly organized state military forces or United States troops to associate as a military company or organization or to parade in public with firearms.  
Two groups are excepted from this section and may drill and parade with firearms in public with the governor's consent:  
! students at an educational institution at which military science is a prescribed part of the course of instruction, and  
! honorably discharged soldiers from the United States services.  
This section does not prevent a parade by the active militia of another state as provided by law.

**DIGEST:** CSHB 1456 would add Penal Code, sec. 42.021 making it a state-jail offense, punishable by 180 days to two years in jail and a fine up to \$10,000, to:  
! teach or demonstrate how to use or make a chemical dispensing

device, explosive weapon, or firearm if the person knew or intended that the instrument would be used to cause civil disorder; or  
! meet with two or more people as a paramilitary organization to train, practice, or be instructed in the use of such instruments for the purpose of causing civil disorder.

A person also would commit a state-jail offense if they were a member of a body that committed a civil-disorder offense. Civil disorder would be considered a public disturbance involving an act of violence by three or more people that caused immediate danger of injury to a person, resulted in injury, or resulted in damage to the property of another.

It would be a defense to prosecution that the alleged offender was a law enforcement officer performing an official duty at the time of the offense.

The bill would amend Government Code, sec. 431.010 to make it a class C misdemeanor (maximum fine of \$500) for a person to associate with a military company or organization other than the regularly organized state military forces or United States troops or to parade in public with firearms.

The bill would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

HB 1456 rightly would make it a state-jail offense to teach or train for the purposes of committing violent civil disorder. Similar legislation has been enacted in at least 24 states — including Arkansas, Louisiana, Oklahoma, and New Mexico. Surrounded by states with anti-paramilitary training laws, Texas has become a haven for such groups.

The Republic of Texas was the most widely publicized paramilitary group in Texas in recent years, but many others are active. In April 1997, four individuals linked to a north Texas paramilitary group were arrested for plotting to blow up gas storage tanks as a diversion while they robbed an armored car in a nearby town. In July 1997, members of a multi-state paramilitary group were arrested in San Saba County on their way to attack Fort Hood. The plot had been discovered by undercover officers during a militia conference in Missouri. The bill would give law enforcement agencies another tool to prevent violent acts by such groups.

HB 1456 would not prohibit legitimate activities involving weapons or lethal training, such as rifle ranges or karate schools, because these activities are not conducted with the purpose of causing violent civil disorder. The bill is based on a model statute that itself was based on the Federal Civil Disobedience Act of 1968. The federal statute has been upheld by the 7th Circuit Court in 1969 and the 5th Circuit Court in 1972.

The bill would not be aimed at gun owners or citizens with anti-government views. It would apply to any group seeking to make a point through violence. The bill would not inhibit the activities of rifle associations and other legitimate groups, since these organizations do not advocate violence.

OPPONENTS  
SAY:

HB 1456 would violate the rights of citizens guaranteed under the First and Second Amendment of the U.S. Constitution. The bill could be used as a justification for overzealous local authorities to shut down groups that were critical of government and law enforcement agencies and that conducted legitimate organized activities for their members, such as self-defense or firearm safety training.

The bill is aimed at gun owners with anti-government views. The First Amendment guarantees the rights of citizens to peaceably assemble and voice their grievances against the government. The bill could be used to persecute citizens who simply were exercising their Constitutional rights to assemble, speak freely, and bear arms.

NOTES:

The substitute changes the original by:

- ! adding chemical weapons to the offense criteria and definition of paramilitary organization; and
- ! eliminating an offense against a state officer or state property from the specified offense criteria.