

**SUBJECT:** Enhancing punishments for assaults committed against security officers

**COMMITTEE:** Law Enforcement — committee substitute recommended

**VOTE:** 6 ayes — Driver, Garza, Hupp, Burnam, Hegar, Keel

0 nays

1 present not voting — Y. Davis

**WITNESSES:** For — Bob Burt, Dan B. Flores, David Scepanski, and Charles Talbert, Associated Security Services and Investigators of the State of Texas; Antonio Sanchez, Statewide Patrol, Inc.

Against — None

**BACKGROUND:** Penal Code, sec. 22.01 defines assault as intentionally, knowingly, or recklessly causing injury to another; intentionally or knowingly threatening another with imminent bodily injury; or intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocation.

Assault is a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000, unless the offender assaults someone whom the offender knew was a public servant who was lawfully discharging duties or in retaliation for those official duties, in which case it is a third-degree felony, punishable by two to 10 years in prison and an optional fine of up to \$10,000. An offender is presumed to be able to identify a public servant because that person is wearing a distinctive uniform or badge.

Under Penal Code, sec. 22.02, an assault becomes an aggravated assault when a person causes serious bodily harm and uses or exhibits a deadly weapon. Aggravated assault is a second-degree felony, punishable by two to 20 years in prison and an optional fine of up to \$10,000, but an aggravated assault against a public servant lawfully discharging an official duty or in retaliation for those official duties 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.

Occupations Code, sec. 1702.002 defines a commissioned security officer as an officer to whom the Texas Commission on Private Security has issued a commission to carry a firearm. Sec. 1702.221 requires that an alarm systems installer or monitor, dog trainer, manager or branch office manager, noncommissioned security officer, private investigator, private security consultant, or security salesperson also be registered with the commission.

**DIGEST:**

CSHB 565 would increase the penalty for assaulting a security officer who is performing a duty as a security officer from a Class A misdemeanor to a third-degree felony. It would increase the penalty for aggravated assault on a security officer who is performing a duty from a second-degree felony to a first-degree felony. A person would be presumed to know that a person was a security officer if the officer was wearing a distinctive uniform or badge.

The bill would define security officer as person commissioned as a security officer under Occupations Code, sec. 1702.002, or a noncommissioned security officer registered under sec. 1702.221.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

Security officers face the same level of risk in protecting the public as do law enforcement officers commissioned by the state, counties, and cities. They deserve the same level of protection under the law when they are assaulted in course of their duties. Each year, untold numbers of security officers are injured seriously in Texas. Enhancing the penalties to a third-degree felony for assault and to a first-degree felony for aggravated assault would provide an incentive for law enforcement agencies and prosecutors to investigate these cases and bring the perpetrators to justice.

CSHB 565 would recognize the increased professionalization and growing importance of private security officers. More than 140,000 security officers have met the demanding standards set by the Legislature and the Texas Commission on Private Security. Private security officers provide protection at hospitals, entertainment establishments, theme parks, and malls, and the need for these officers has grown since the terrorist attacks on September 11, 2001. Providing for the personal safety of these officers is one way for society to show gratitude for the dangers they encounter on a daily basis.

CSHB 565 would enhance penalties only for assaulting a security officer performing official duties while wearing a distinctive uniform and a badge. This would preclude unreasonable penalties for incidents arising from confusion about whether a person actually was a security officer or in cases involving off-duty security officers. Prosecutors and juries will rely on their own discretion and judgment in assessing felony penalties.

**OPPONENTS  
SAY:**

CSHB 565 would establish overly harsh penalties for these offenses. For example, a person could receive a sentence of two to 10 years in prison and an optional fine of up to \$10,000 for shoving a security officer in the parking lot of an apartment complex or in the food court of a mall.

Security officers do not undergo the same level of training as Department of Public Safety troopers or city police officers, and they should not enjoy the same level of protection under the law.

**NOTES:**

The committee substitute would change the original bill to apply to noncommissioned as well as commissioned security officers.