

SUBJECT: First-degree felony for aggravated assault of emergency services personnel

COMMITTEE: Criminal Jurisprudence —favorable, without amendment

VOTE: 5 ayes — Gallego, Aliseda, Burkett, Carter, Zedler
0 nays
4 absent — Hartnett, Christian, Y. Davis, Rodriguez

WITNESSES: For — None

Against — (*Registered, but did not testify:* Gyl Switzer, Mental Health America of Texas)

BACKGROUND: Penal Code sec. 22.02 establishes the offense of aggravated assault, which is defined as committing the crime of assault and causing serious bodily injury to another or using or exhibiting a deadly weapon during the offense. The offense is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000). Under five circumstances, the offense is a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000), including if committed against a public servant if certain conditions are met and against a security officer who is performing security officer duties.

DIGEST: HB 3522 would add assault against emergency services personnel who are providing emergency services to the list of circumstances that can make aggravated assault a first-degree felony. Persons would be presumed to know that a person they assaulted was an emergency service personnel if the worker was wearing a distinctive uniform or badge indicating employment as an emergency services personnel.

The bill would take effect September 1, 2011, and would apply only to offenses committed on or after that date.

SUPPORTERS SAY: HB 3522 is needed because current law on aggravated assault does not adequately protect emergency services workers. In 2007, the Legislature added emergency services personnel to type of victims against whom

regular assault is a third-degree felony. However, at that time the penalty for aggravated assault against emergency service workers was not correspondingly increased.

HB 3522 would provide greater protection for emergency services personnel, who place themselves at risk as part of their routine work or volunteer duties, by increasing the penalty for aggravated assault committed against them. Raising the penalty for aggravated assault to a first-degree felony would have a deterrent effect and would recognize the special status and need for protection of emergency services personnel. Texas has an enhanced penalty for aggravated assault on certain categories of individuals such as public servants and security officers, and emergency services personnel belong among these groups.

Under HB 3522, the enhanced penalty would apply only if a person was providing emergency services and wearing a distinctive uniform or badge indicating that status.

The fiscal note estimates that there would be no significant fiscal implication to the state and that the number of persons convicted under the bill would not result in a significant impact on corrections agencies.

**OPPONENTS
SAY:**

HB 3522 is unnecessary because the existing laws on aggravated assault adequately punish all of these offenses, including those against emergency services personnel. Emergency services personnel should be protected by the same laws as others, and there should not be varied treatment of victims subject to similar harm.

Texas cannot afford to enhance criminal penalties when existing punishments are adequate. The criminal justice system already faces a resource shortage, and lengthening prison sentences would strain the system further.