

SUBJECT: Making it a third-degree felony to assault emergency room personnel

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody, Schaefer, Toth

0 nays

1 absent — Hughes

WITNESSES: For — Norma Broadhurst; Sally Gillam, Texas Organization of Nurse Executives and Texas Nurses Association; Mary Leblond, Emergency Nurses Association; Jeff Scott; Elizabeth Sjoberg, Texas Hospital Association; Linda Waggoner; James Willmann, Nursing Legislative Agenda Coalition; Cindy Zolnierrek, Texas Nurses Association; (*Registered, but did not testify*: Donald Baker, City of Austin Police Department; Paul Bollinger, Doctors Hospital at Renaissance; Douglas Burns; Jamie Capelo, Texas Academy of Physician Assistants; Trish Conradt, Coalition for Nurses in Advanced Practice; Chung Massey; Leah May; Don McBeath, Texas Organization of Rural and Community Hospitals; Maureen Milligan, Teaching Hospitals of Texas; Marcus Mitias, Texas Health Resources; Lisa Offord; Neftali Partid, The Methodist Hospital System; Andrew Smith, University Health System; Bryan Sperry, Children's Hospital Association of Texas; GK Sprinkle, Texas Ambulance Association; Gwendolyn Stafford, Covenant Health System; Charlotte Trudeau, Emergency Nurses Association; Dinah Welsh, Texas EMS, Trauma, and Acute Care Foundation)

Against — Kristin Etter, Texas Criminal Defense Lawyers Association; Greg Hansch, National Alliance on Mental Illness Texas; Gyl Switzer, Mental Health America of Texas; (*Registered, but did not testify*: Melissa Davis, National Association of Social Workers – Texas Chapter; Stephanie Yin, National Alliance on Mental Illness Texas)

On — Anna Gray, Texas Catalyst for Empowerment; Meagan Longley, Hogg Foundation for Mental Health; Steven Tays, Bexar County Criminal District Attorney's Office; Patrick Waldron, Department of State Health Services; (*Registered, but did not testify*: Shannon Edmonds, Texas

District and County Attorneys Association)

BACKGROUND: Penal Code, sec. 22.01, defines the offense of assault. The offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Under five circumstances, the offense is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000), including if committed against someone the defendant knows is emergency services personnel while the person is providing emergency services. "Emergency services personnel" includes firefighters, emergency medical services personnel, and other individuals who provide emergency services to the general public.

DIGEST: For the purposes of an assault offense, CSHB 705 would include emergency room personnel within the definition of "emergency services personnel."

This bill would take effect on September 1, 2013.

SUPPORTERS SAY: CSHB 705 would help protect emergency room personnel. Currently, an attack on emergency room worker is only class A misdemeanor, even though an assault on other emergency services personnel is a third-degree felony. In recent years, violent attacks on nurses and other emergency room workers have increased. These workers deserve the same protections given to other emergency services personnel. By raising the penalty to a third-degree felony, CSHB 705 would deter assaults and recognize the need to protect all emergency services personnel.

This bill would not affect individuals with mental illness more than current laws already do, and courts are increasingly adept at identifying and appropriately handling cases involving mental illness.

OPPONENTS SAY: CSHB 705 would disproportionately affect individuals with mental illness. This bill would provide another way to prosecute and incarcerate these individuals with overly severe punishments that can exacerbate the underlying mental illness. Further, this bill would be unnecessary because existing laws adequately punish assault offenses, including those against emergency room workers.