

SUBJECT: Interfering with peace officer by distributing officers private information

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Moody, Canales, Hunter, Shaheen, Simpson

0 nays

1 absent — Leach

WITNESSES: For — Latesha Watson, Arlington Police Department; (*Registered, but did not testify*: Andres Pina, Arlington Police Department; Donald Baker, Austin Police Department; Steve Dye, Grand Prairie Police Department; Jessica Anderson, Houston Police Department; Shanna Igo, Texas Municipal League; Gary Tittle, Texas Police Chiefs Association; Lon Craft and Heath Wester, Texas Municipal Police Association)

Against — (*Registered, but did not testify*: Thomas Ratliff, Harris County Criminal Lawyers Association)

BACKGROUND: Penal Code, sec. 38.15 makes interference with public duties a criminal offense. Under sec. 38.15(a)(1) it is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to interrupt, disrupt, impede, or otherwise interfere with a peace officer while the officer is performing a duty or exercising lawful authority.

DIGEST: CSHB 1061 would create a rebuttable presumption, under the offense of interfering with public duties, that a person interfered with a peace officer if during the trial it was shown that the person intentionally disseminated the officer's personal, private, or confidential information.

The bill would be effective September 1, 2015, and would apply to offenses committed on or after that date.

SUPPORTERS SAY: CSHB 1061 would update the state's law on interfering with the public duties of peace officers to reflect an emerging threat to those officers.

While current law makes it a crime to interfere with the duties of a peace officer, an increasing activity called “doxing” can negatively affect investigations and the personal security of officers but is not covered explicitly under the offense laws.

Doxing can involve using the Internet to research and publish personal information such as phone numbers, addresses, Social Security numbers, passwords, and financial information. One case in 2011 reportedly resulted in the online publication of peace officers’ private information. Publishing this type of information as it relates to peace officers can interfere with criminal investigations and result in threats to or the harassment of officers or their families and possible retaliation by criminals or others. While certain information relating to peace officers can be kept confidential under the state’s public information laws, not all information is covered, and those laws might not apply to some activities involved in disseminating information in doxing cases.

The bill would address this issue by establishing a rebuttable presumption that could be used as part of a prosecution of the crime of interference with public duties. If a person intentionally disseminated peace officers’ private information as a part of committing the offense, there would be a rebuttable presumption that a person interfered with a peace officer. Establishing this presumption would help appropriate cases move forward because it would be clear to courts that certain evidence was relevant to a case and admissible in a trial.

The bill would help protect peace officers from interference in conducting their duties without infringing on free speech or non-criminal activities. While the bill would create a presumption, many other factors would have to be present for a case to be prosecuted or to result in a conviction. The bill would not change the essence of the current offense, which still would require interference with peace officers performing their duties or exercising their lawful authority. The presumption that would be established by the bill would be rebuttable by defendants. The offense itself would have to be committed with criminal negligence, and the dissemination of information would have to be done intentionally. The

information also would have to be personal, private, or confidential. As with any criminal case, the offense of interference with public duties would have to be proved beyond a reasonable doubt, and prosecutors would use their discretion only to prosecute appropriate cases.

**OPPONENTS
SAY:**

CSHB 1061 would create too broad a presumption that could facilitate prosecutions for activities that may consist of protected speech. If information is gleaned and disseminated through lawful means, it should not be presumed to be interfering with a peace officer as a component of a criminal offense.

It would be better to approach the issue of doxing by focusing on any crimes committed in the gathering or use of the information. For example, it is a crime to obtain information illegally through theft, hacking, or other means. Identity theft is also a crime, and making threats or harassing peace officers or their families would fall under current offenses.