

SUBJECT: Increasing penalty for obstructing a hospital, emergency care services

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: *After recommitted:*

6 ayes — Collier, K. Bell, Cason, Cook, Murr, Vasut

3 nays — Crockett, Hinojosa, A. Johnson

WITNESSES: *March 29 public hearing:*

For — (*Registered, but did not testify:* Robert McClinton, Bell County Sheriffs Department; Frederick Frazier, Dallas Police Association/State FOP; Ray Hunt, HPOU; James Smith, San Antonio Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; John Wilkerson, Texas Municipal Police Association; Cynthia Simons, Texas Women's Justice Coalition)

Against — Minister Dominique Alexander, Next Generation Action Network; Dominique Walker, The Afiya Center; Melissa Perry; Lelani Russell; Ruth Torres; (*Registered, but did not testify:* Lauren Johnson, ACLU of Texas; Angelica Cogliano, Austin Lawyers Guild; Scott Henson, Just Liberty; Emily Gerrick, Texas Fair Defense Project; Susana Carranza; Idona Griffith; Suzanne Mitchell)

On — Josh Reno, Office of the Attorney General; (*Registered, but did not testify:* Jason Griffin, Texas Department of Public Safety; Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Penal Code sec. 42.03 makes it a crime to obstruct a highway or other passageway. It is an offense to, without legal privilege or authority, intentionally, knowingly, or recklessly:

- obstruct a highway, street, sidewalk, railway, waterway, elevator, aisle, hallway, entrance, or exit to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles, or conveyances; or

- disobey a reasonable request or order to move issued by a person the individual knows to be or is informed is a peace officer, fireman, or person with authority to control the premises if the order is to prevent obstruction of a highway or other area covered by the provision or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard.

Offenses are class B misdemeanors (up to 180 days in jail and/or a maximum fine of \$2,000).

Transportation Code sec. 541.201 lists several categories of "authorized emergency vehicle," including a fire department or police vehicle, a licensed public or private ambulance, and an emergency medical services vehicle.

DIGEST:

CSHB 9 would raise the penalty for some offenses of obstructing a highway or other passageway. It would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) to knowingly:

- prevent the passage of an authorized emergency vehicle that was operating the vehicle's emergency audible or visual signals; or
- obstruct access to a hospital or certain other health care facility that provided emergency medical care.

If a court granted community supervision to someone convicted of a state jail felony for obstructing a highway or other passageway, the court would have to require that the defendant spend at least 10 days confined in a county jail.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 9 would help protect those in need of emergency care by increasing the criminal penalty for blocking access to a hospital or emergency care facility or preventing passage of an authorized emergency vehicle. Timing

can be critical when someone is being rushed to the hospital or in another emergency, and only a few minutes can mean the difference between life and death. CSHB 9 would deter individuals from actively standing in the way of those needing emergency care and appropriately punish those who did.

This bill would address situations similar to a reported incident in which law enforcement officers were shot and access to a hospital was blocked, but it also would help anyone needing emergency medical care. There are numerous types of situations, such as street racing or other gatherings, in which it is necessary to ensure emergency vehicles can move as needed. The seriousness of these emergency situations and the need to access hospitals warrants an increased penalty when compared to other situations in which highways or passageways are blocked. The penalty would be analogous to one for other offenses with potentially fatal outcomes. Emergency vehicles should not have to look for alternative routes in emergency situations or weigh the seriousness of someone's injury when determining their route.

CSHB 9 is narrowly drawn to apply only to emergency situations in which an individual knowingly blocked access of an emergency vehicle or to a medical facility, and vehicles would have to be authorized emergency vehicles using lights or a siren. The bill would not infringe on the rights of individuals, and those engaged in peaceful protests in the community who did not threaten another's emergency medical care or block an emergency vehicle would not fall under its provisions. The act would have to be done knowingly, ensuring that those who might have visual or other impairments or other reasons for not meeting this standard would not fall under its provisions.

**CRITICS
SAY:**

CSHB 9 is unnecessary, could be used to criminalize peaceful protests, and could have a chilling effect on the rights to speech and assembly. Incidents described by the bill are not occurring in Texas, and current law would adequately punish anyone who blocked access to a hospital or obstructed a highway, street, or other area covered by current statute.

The bill would too broadly define where an offense could occur. Hospitals could have multiple entrances and the bill would include blocking even those that may be used by staff or for non-emergency reasons as potential felony offenses.

Current law appropriately makes obstructing a highway or other passageway a class B misdemeanor, which carries a potential punishment of up to 180 days in jail. Raising the penalty to a felony with mandatory jail time if given probation would be too harsh and out of proportion to the offense. Requiring a minimum jail sentence for someone given community supervision for the offense would reduce judicial discretion in handling such cases.

OTHER
CRITICS
SAY:

A felony offense with potential incarceration in a state facility would be too harsh for conduct that does not include bodily harm. The bill should include defenses for situations in which a felony punishment would be inappropriate. For example, individuals with certain impairments, such as visual or hearing, as well as those who might not be able to control their movements, such as if someone else prevented an individual from moving, should not be subject to increased punishments. In other cases, if an alternative, non-delaying route around an obstruction was available, an increased penalty also would be inappropriate. In these situations, individuals could still be held accountable under current law, just not subject to increased penalties.