

SUBJECT: Creating defense to prosecution for use of less-lethal projectile devices

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 5 ayes — Moody, Cook, Darby, Leach, Schatzline
1 nay — C. Morales
3 absent — Bhojani, Bowers, Harrison

SENATE VOTE: On final passage (April 26) — 19 - 12

WITNESSES: For — Joe Hawkins, Dallas Police Department; Ray Hunt, Houston Police Officers' Union (*Registered, but did not testify*: Chris Jones, Jennifer Szimanski, Combined Law Enforcement Associations of Texas; James Parnell, Dallas Police Association; Joe Morris, Game Warden Peace Officers Association; Jessica Anderson, Houston Police Department; James Smith, San Antonio Police Department; Carlos Ortiz, San Antonio Police Officers Association; Dallas Reed, Texas Municipal Police Association; Julio Gonzalez, Texas Police Chief's Association; AJ Louderback, Texas Sheriffs Regional Alliance; Thomas Parkinson)

Against — Chris Harris, Austin Justice Coalition; Bryan Mitchell, Dallas County Criminal District Attorney John Creuzot; Kathy Mitchell, Just Liberty, Kelly Green (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; Shea Place, Texas Criminal Defense Lawyers Association; Stephanie Gharakhanian, Travis County District Attorney's Office; Patricia Goforth; Idona Griffith; Mary Johnson; Taylor Trevino)

BACKGROUND: Some have suggested that more use of less-lethal projectiles by peace officers could reduce injuries for both suspects and officers compared to more lethal options, such as firearms.

DIGEST: CSSB 2593 would establish a defense to prosecution for certain offenses by a peace officer involving use or exhibition of a less-lethal projectile

device.

The bill would define a "less-lethal projectile device" as any weapon, device, or munition that could deploy a projectile that was designed or intended to temporarily incapacitate the target while minimizing the risk of serious bodily injury or death.

The bill would create a defense to prosecution for assault, aggravated assault, or deadly conduct if:

- the use or exhibition of a less-lethal projectile device resulted in the conduct constituting the threat or bodily injury;
- the actor reasonably believed the use or exhibition of the device was immediately necessary to accomplish the actor's official duties as a peace officer;
- the actor did not intentionally, knowingly, or recklessly cause serious bodily injury or death; and
- the actor used or exhibited the device in substantial compliance with the actor's training, the policies and procedures of the law enforcement agency employing the actor, and the manufacturer's instructions.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.