

BILL ANALYSIS

Senate Research Center

S.B. 80
By: Ellis
Criminal Justice
4-16-97
Committee Report (Amended)

DIGEST

Currently, a county criminal court is not authorized to hear felony cases or upgrade a Class A misdemeanor to a third degree felony without removing the case from their jurisdiction. S.B. 80 increases the punishment for offenses motivated by bias or prejudice by one degree unless it is a Class A misdemeanor or a first degree felony. If the offense is a Class A misdemeanor, the mandatory minimum term of confinement is increased to 180 days.

PURPOSE

As proposed, S.B. 80 increases the prosecution of and punishment for an offense motivated by bias or prejudice.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.47, Penal Code, to provide that the punishment for an offense other than a first degree felony or a Class A misdemeanor is increased to the punishment prescribed for the next highest category of offense, if the judge or jury, whichever determines punishment in the case, makes an affirmative finding under Article 42.014, Code of Criminal Procedure. Provides that the minimum term of confinement for the offense is increased to 180 days, if the offense is a Class A misdemeanor.

SECTION 2. Amends Article 42.014, Code of Criminal Procedure, to require a judge to make an affirmative finding and enter the finding in the judgment of the case, in the punishment phase of the trial of an offense under Title 5 (offenses against the person) or Section 28.02 or 28.03, Penal Code, if the judge or jury determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed or intentionally selected property damaged as a result of the offense because of age, gender, race, color, disability, religion, national origin or ancestry, or perceived sexual preference of the person against whom the offense was committed or the owner or occupant of the property. Makes conforming changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 1997.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

Page 1, line 8, amends text to strike "court" and insert "judge or jury, whichever determines punishment in the case," Page 2, line 1, amends text to strike "court" and insert "judge or jury." Page 2, line 9, amends text to strike "court" and insert "judge."

Amendment 2.

Page 1, line 14, deletes text regarding the applicability of Section 12.47, Penal Code. Page 2, line 5, amends text to insert "age, gender," between "because of the" and "race." Page 2, line 6, amends text to strike "sexual orientation" and insert "perceived sexual preference."