

BILL ANALYSIS

Senate Research Center

H.B. 1721
By: Bohac, Leibowitz (Deuell)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 38.14, Penal Code, makes it unlawful for a person to take or attempt to take a weapon from a peace officer, parole officer, or community supervision and corrections department officer. Currently, the law does not include county jailers or detention officers that guard prisoners in jails and detention facilities. There are times when these officers are armed while guarding or transporting prisoners under their control. In order to protect these officers and prevent escape, it should also be unlawful for a person to try to disarm one of these officers.

H.B. 1721 relates to taking or attempting to take a weapon from an employee or official of a correctional facility.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 38.14, Penal Code, to read as follows:

Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE OFFICER, EMPLOYEE OR OFFICIAL OF CORRECTIONAL FACILITY, PAROLE OFFICER, OR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICER.

SECTION 2. Amends Sections 38.14(b), (c), (d), and (e), Penal Code, as follows:

(b) Provides that a person commits an offense if the person intentionally or knowingly and with force takes or attempts to take from a peace officer, employee, or official of a correctional facility, parole officer, or community supervision and corrections department officer the officer's, employee's, or official's firearm, nightstick, stun gun, or personal protection chemical dispensing device with the intention of harming the officer, employee, or official or a third person.

(c) Provides that the actor is presumed to have known that the peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer was a peace officer, employee, or official of a correctional facility, parole officer, or community supervision and corrections department officer if the officer, employee, or official was wearing a distinctive uniform or badge indicating his employment, or the officer, employee, or official identified himself as a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer. Makes nonsubstantive changes.

(d) Makes conforming changes.

(e) Provides that an offense under this section is a felony of the third degree, if the defendant took a weapon described by Subsection (b) from an officer, employee, or official described by that subsection, rather than Subsection (b), and a state jail felony, if the defendant attempted to take a weapon described by Subsection (b) from an officer, employee, or official described by that subsection. Makes nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.