

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 3224  
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Criminal Justice  
5/22/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The purpose of C.S.H.B. 3224 is to clarify what constitutes the offense of arson and to provide a penalty that will allow an appropriate standard of proof that will discourage prosecutors from pleading to a lesser charge while providing an appropriate penalty for the offense. This bill makes it a state jail felony for a person to start a fire or cause an explosion intentionally that results in either reckless damages to a building of another or recklessly causes serious bodily injury or death to another person.

This bill amends the Texas Penal Code to revise and reduce the penalty for arson from a third degree felony to a state jail felony. As proposed, the bill would accommodate the appropriate burden of proof for that penalty class. Under current law, this type of arson is a third degree felony. As such, the burden of proof is raised in a manner that inclines prosecutors to seek a lesser charge. Many times this causes pleading down to a lesser charge of criminal mischief, which is punishable as a Class C misdemeanor.

C.S.H.B. 3224 amends current law relating to the prosecution and punishment of the offense of arson.

### **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 Section 28.02, Penal Code, by adding Subsection (a-2) and (h), and amending Subsections (f) and (g), as follows:

(a-2) Provides that a person commits an offense if the person intentionally starts a fire or causes an explosion and in so doing recklessly damages or destroys a building belonging to another or recklessly causes another person to suffer bodily injury or death.

(f) Provides that an offense under Subsection (a-2) is a state jail felony. Deletes existing text providing that it is a felony of the third degree if a person commits an offense under Subsection (a)(2) (relating to a person committing an offense relating to a building, habitation, or vehicle) of this section and the person intentionally starts a fire in or on a building, habitation, or vehicle, with intent to damage or destroy property belonging to another, or with intent to injure any person, and in so doing, recklessly causes damage to the building, habitation, or vehicle.

(g) Authorizes the actor, if conduct that constitutes an offense under Subsection (a-1) (regarding a person committing an offense relating to a controlled substance) or that constitutes an offense under Subsection (a-2), rather than Subsection (f), also constitutes an offense under another subsection of this section or another section of this code, to be prosecuted under Subsection (a-1) or Subsection (a-2), under the other subsection of this section, or under the other section of this code.

(h) Provides that the attorney general, with the consent of the appropriate local county or district attorney, has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.