

By: Villalba

H.B. No. 429

A BILL TO BE ENTITLED

AN ACT

1
2 relating to increasing the punishment for an offense committed
3 against a person because of the person's status as a peace officer,
4 a firefighter, or emergency medical services personnel.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Articles 6.08(a), (b), and (c), Code of Criminal
7 Procedure, are amended to read as follows:

8 (a) At any proceeding in which the defendant appears in
9 constitutional county court, statutory county court, or district
10 court that is related to an offense under Title 5, Penal Code, or
11 Section 28.02, 28.03, or 28.08, Penal Code, in which it is alleged
12 that the defendant committed the offense for a purpose or reason
13 [~~because of bias or prejudice as~~] described by Article 42.014, a
14 person may request the court to render a protective order under
15 Title 4, Family Code, for the protection of the person.

16 (b) The court shall render a protective order in the manner
17 provided by Title 4, Family Code, if, in lieu of the finding that
18 family violence occurred and is likely to occur in the future as
19 required by Section 85.001, Family Code, the court finds that
20 probable cause exists to believe that an offense under Title 5,
21 Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code,
22 occurred, that the defendant committed the offense for a purpose or
23 reason described by Article 42.014 [~~because of bias or prejudice~~],
24 and that the nature of the scheme or course of conduct engaged in by

1 the defendant in the commission of the offense indicates that the
2 defendant is likely to engage in the future in conduct prohibited by
3 Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code,
4 and committed for a purpose or reason described by Article 42.014
5 [~~because of bias or prejudice~~].

6 (c) The procedure for the enforcement of a protective order
7 under Title 4, Family Code, applies to the fullest extent
8 practicable to the enforcement of a protective order under this
9 article, including provisions relating to findings, contents,
10 duration, warning, delivery, law enforcement duties, and
11 modification, except that:

12 (1) the printed statement on the warning must refer to
13 the prosecution of subsequent offenses committed for a purpose or
14 reason described by Article 42.014 [~~because of bias or prejudice~~];

15 (2) the court shall require a constable to serve a
16 protective order issued under this article; and

17 (3) the clerk of the court shall forward a copy of a
18 protective order issued under this article to the Department of
19 Public Safety with a designation indicating that the order was
20 issued to prevent offenses committed for a purpose or reason
21 described by Article 42.014 [~~because of bias or prejudice~~].

22 SECTION 2. Articles 42.014(a) and (c), Code of Criminal
23 Procedure, are amended to read as follows:

24 (a) In the trial of an offense under Title 5, Penal Code, or
25 Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an
26 affirmative finding of fact and enter the affirmative finding in
27 the judgment of the case if at the guilt or innocence phase of the

1 trial, the judge or the jury, whichever is the trier of fact,
2 determines beyond a reasonable doubt that the defendant
3 intentionally selected the person against whom the offense was
4 committed, or intentionally selected the person's property that was
5 damaged or affected as a result of the offense, because of:

6 (1) the defendant's bias or prejudice against a group
7 identified by race, color, disability, religion, national origin or
8 ancestry, age, gender, or sexual preference; or

9 (2) the person's status as a peace officer, a
10 firefighter, or emergency medical services personnel.

11 (c) In this article:

12 (1) "Emergency medical services personnel" has the
13 meaning assigned by Section 773.003, Health and Safety Code.

14 (2) "Firefighter" means a person who is a paid or
15 volunteer firefighter.

16 (3) "Sexual [~~,"sexual~~]" preference has the following
17 meaning only: a preference for heterosexuality, homosexuality, or
18 bisexuality.

19 SECTION 3. Section 22.111, Government Code, is amended to
20 read as follows:

21 Sec. 22.111. TRAINING FOR PROSECUTING ATTORNEYS RELATED TO
22 PUNISHMENT ENHANCEMENT BECAUSE OF BIAS OR PREJUDICE. The court of
23 criminal appeals shall provide to prosecuting attorneys training
24 related to the use of Section 12.47, Penal Code, and Article 42.014,
25 Code of Criminal Procedure, for enhancing punishment on a finding
26 that an offense was committed for a purpose or reason described by
27 [~~because of the defendant's bias or prejudice as defined in]~~

1 Article 42.014, Code of Criminal Procedure.

2 SECTION 4. Section 12.47, Penal Code, is amended to read as
3 follows:

4 Sec. 12.47. PENALTY IF OFFENSE COMMITTED BECAUSE OF BIAS OR
5 PREJUDICE. (a) If an affirmative finding under Article 42.014,
6 Code of Criminal Procedure, is made in the trial of an offense other
7 than a first degree felony or a Class A misdemeanor, the punishment
8 for the offense is increased to the punishment prescribed for the
9 next highest category of offense. If the offense is a Class A
10 misdemeanor, the minimum term of confinement for the offense is
11 increased to 180 days.

12 (b) This section does not apply to the trial of:

13 (1) an offense of injury to a disabled individual
14 under Section [~~Sec.~~] 22.04, if the affirmative finding in the case
15 under Article 42.014, Code of Criminal Procedure, shows that the
16 defendant intentionally selected the victim because the victim was
17 disabled; or

18 (2) an offense for which the punishment is subject to
19 enhancement based on the victim's status as a peace officer, a
20 firefighter, or emergency medical services personnel.

21 (c) [~~(b)~~] The attorney general, if requested to do so by a
22 prosecuting attorney, may assist the prosecuting attorney in the
23 investigation or prosecution of an offense committed for a purpose
24 or reason described by Article 42.014, Code of Criminal Procedure
25 [~~because of bias or prejudice~~]. The attorney general shall
26 designate one individual in the division of the attorney general's
27 office that assists in the prosecution of criminal cases to

1 coordinate responses to requests made under this subsection.

2 (d) In this section:

3 (1) "Emergency medical services personnel" and
4 "firefighter" have the meanings assigned by Article 42.014, Code of
5 Criminal Procedure.

6 (2) "Peace officer" has the meaning assigned by
7 Article 2.12, Code of Criminal Procedure.

8 SECTION 5. Section 25.071(a), Penal Code, is amended to
9 read as follows:

10 (a) A person commits an offense if, in violation of an order
11 issued under Article 6.08, Code of Criminal Procedure, the person
12 knowingly or intentionally:

13 (1) commits an offense under Title 5 or Section 28.02,
14 28.03, or 28.08 and commits the offense for a purpose or reason
15 ~~[because of bias or prejudice as]~~ described by Article 42.014, Code
16 of Criminal Procedure;

17 (2) communicates:

18 (A) directly with a protected individual in a
19 threatening or harassing manner;

20 (B) a threat through any person to a protected
21 individual; or

22 (C) in any manner with the protected individual,
23 if the order prohibits any communication with a protected
24 individual; or

25 (3) goes to or near the residence or place of
26 employment or business of a protected individual.

27 SECTION 6. The changes in law made by this Act apply only to

1 an offense committed on or after the effective date of this Act. An
2 offense committed before the effective date of this Act is governed
3 by the law in effect on the date the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense occurred before that date.

7 SECTION 7. This Act takes effect September 1, 2017.