

1-1 By: Perry S.B. No. 1575
1-2 (In the Senate - Filed March 8, 2017; March 21, 2017, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 March 29, 2017, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 29, 2017, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	Whitmire	X		
1-9	Huffman	X		
1-10	Birdwell	X		
1-11	Burton	X		
1-12	Creighton	X		
1-13	Garcia	X		
1-14	Hughes	X		
1-15	Menéndez	X		
1-16	Perry	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the prosecution of the offenses of assault and
1-20 harassment by persons committed to certain facilities; increasing a
1-21 criminal penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 1.07, Penal Code, is amended by adding
1-24 Subdivision (8-a) to read as follows:

1-25 (8-a) "Civil commitment facility" means a facility
1-26 owned, leased, or operated by the state, or by a vendor under
1-27 contract with the state, that houses only persons who have been
1-28 civilly committed as sexually violent predators under Chapter 841,
1-29 Health and Safety Code.

1-30 SECTION 2. Section 22.01, Penal Code, is amended by
1-31 amending Subsections (b-1) and (f) and adding Subsection (b-2) to
1-32 read as follows:

1-33 (b-1) Notwithstanding Subsection (b), an offense under
1-34 Subsection (a)(1) is a felony of the third degree if the offense is
1-35 committed:

1-36 (1) while the actor is committed to a civil commitment
1-37 facility; and

1-38 (2) against:

1-39 (A) an officer or employee of the Texas Civil
1-40 Commitment Office:

1-41 (i) while the officer or employee is
1-42 lawfully discharging an official duty at a civil commitment
1-43 facility; or

1-44 (ii) in retaliation for or on account of an
1-45 exercise of official power or performance of an official duty by the
1-46 officer or employee; or

1-47 (B) a person who contracts with the state to
1-48 perform a service in a civil commitment facility or an employee of
1-49 that person:

1-50 (i) while the person or employee is engaged
1-51 in performing a service within the scope of the contract, if the
1-52 actor knows the person or employee is authorized by the state to
1-53 provide the service; or

1-54 (ii) in retaliation for or on account of the
1-55 person's or employee's performance of a service within the scope of
1-56 the contract.

1-57 (b-2) Notwithstanding Subsection (b)(2), an offense under
1-58 Subsection (a)(1) is a felony of the second degree if:

1-59 (1) the offense is committed against a person whose
1-60 relationship to or association with the defendant is described by
1-61 Section 71.0021(b), 71.003, or 71.005, Family Code;

(2) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; and

(3) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

(f) For the purposes of Subsections (b)(2)(A) and (b-2)(2) [(b-1)(2)]:

(1) a defendant has been previously convicted of an offense listed in those subsections committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in those subsections is a conviction of the offense listed.

SECTION 3. The heading to Section 22.11, Penal Code, is amended to read as follows:

Sec. 22.11. HARASSMENT BY PERSONS IN CERTAIN [~~CORRECTIONAL~~] FACILITIES; HARASSMENT OF PUBLIC SERVANT.

SECTION 4. Sections 22.11(a) and (e), Penal Code, are amended to read as follows:

(a) A person commits an offense if, with the intent to assault, harass, or alarm, the person:

(1) while imprisoned or confined in a correctional or detention facility, causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal; ~~or~~

(2) while committed to a civil commitment facility, causes:

(A) an officer or employee of the Texas Civil Commitment Office to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal:

(i) while the officer or employee is lawfully discharging an official duty at a civil commitment facility; or

(ii) in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee; or

(B) a person who contracts with the state to perform a service in the facility or an employee of that person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal:

(i) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by the state to provide the service; or

(ii) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract; or

(3) causes another person the actor knows to be a public servant to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of the public servant's official power or performance of an official duty.

(e) For purposes of Subsection (a)(3) [(a)(2)], the actor is presumed to have known the person was a public servant if the person

3-1 was wearing a distinctive uniform or badge indicating the person's
3-2 employment as a public servant.

3-3 SECTION 5. The changes in law made by this Act apply only to
3-4 an offense committed on or after the effective date of this Act. An
3-5 offense committed before the effective date of this Act is governed
3-6 by the law in effect on the date the offense was committed, and the
3-7 former law is continued in effect for that purpose. For purposes of
3-8 this section, an offense was committed before the effective date of
3-9 this Act if any element of the offense occurred before that date.

3-10 SECTION 6. This Act takes effect September 1, 2017.

3-11 * * * * *