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HB 2908 – Public Hearing Comments

Caption: Relating to increasing the punishment for an offense committed against a person because of bias or prejudice on the basis of service as a peace officer and to an education campaign regarding the importance of peace officers in the community.

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Companion Bill: SB 1808, Identical

From fiscal note: Enhancing or increasing the penalty for any offense is expected to result in increased demands upon correctional resources of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. Whether the bill would result in a significant fiscal impact on correctional agencies is indeterminate due to a lack of statewide data containing the detail necessary to isolate those individuals arrested, placed under community supervision, or incarcerated for certain offenses committed against peace officers under the circumstances in which these offenses would be enhanced or increased. The Office of Court Administration and TCOLE do not anticipate a significant fiscal impact. The bill would take effect September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

The Texas Civil Rights Project opposes HB 2908 as: 1) unnecessary, 2) detrimental to relations between police and the communities they serve, 3) an act which may be perceived as affront to historically marginalized groups of people for whom hate crime enhancement were created, and 4) as a step backward in the progress Texas has made to reduce the overcrowded populations in its prisons and jails.

- 1) **HB 2908 is unnecessary:** This bill enhances penalties for the offenses of Arson, Criminal Mischief, Graffiti, Unlawful Restraint, Assault, Terroristic Threat, and Intoxication Assault. These crimes already carry hefty penalties. The purpose of this bill is purely punitive, and makes no meaningful attempt to suggest it will serve as a deterrent to violence against peace officers. The enhancements include:
 - Unlawful Restraint: increases punishment from a third degree to a second degree felony;
 - Assault: increases punishment from a third degree to a second degree felony;
 - Terroristic Threat: increases punishment from a Class A misdemeanor to a State Jail Felony; and
 - Intoxication Assault: increases punishment from a second degree to a first degree felony.

- 2) **HB 2908 is detrimental to relations between police and the communities they serve.** TCRP has historically worked with coalitions with the goal of improving community policing. Here locally, APD implemented 260 recommendations concerning use of force, complaint investigation procedures, training and community relations after a 2008 investigation by the Department of Justice. Similar efforts are again being led by AJC and



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other coalitions. This bill would reverse the progress communities like ours have made over the years and detract from the goal of community policing. The onus of ensuring peaceful interactions between officers and members of the public is now put even more squarely onto the shoulders of the public.

- 3) **HB 2908 may be perceived as affront to historically marginalized groups of people for whom hate crime enhancements were created to protect.** This bill changes the Code of Criminal Procedure’s section 42.014 “Finding that Offense was Committed Because of Bias or Prejudice” to include peace officers to the list of groups identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference. This statute was meant to criminalize acts of violence perpetrated against these vulnerable and historically targeted groups. Although the work of peace officers is incredibly important, and many put their lives on the line every day, their inclusion into this statute meant to address bias and prejudice is inappropriate.
 - To further illustrate, Code of Criminal Procedure section 42.014(b), which the bill does not propose to change, states “The sentencing judge may, as a condition of punishment, require attendance in an educational program to further tolerance and acceptance of others.” In an time when many communities are pushing for more diversity, cultural competency, and sensitivity training for peace officers, it feels misplaced and misguided to contemplate requiring community members to attend these types of programs focusing on tolerance and acceptance of officers.

- 4) **HB 2908 is a step backward in the progress Texas has made to reduce the overcrowded populations in its prisons and jails.** TCRP’s Criminal Justice Reform Program is geared at reducing mass incarceration and decarcerating mental illness. This bill will put more people behind bars for longer. For example, for a charge of graffiti with damage between \$100-\$750, the current Class B Misdemeanor could be bumped up to a Class A misdemeanor with a minimum term of confinement increased to 180 days if it involved a peace officer.
 - We must also pay special attention to the effect the bill would have on certain individuals with mental illness, who can have a difficult time navigating encounters with law enforcement. Our prisons and jails are now the largest providers of acute mental healthcare in the state, and enhancing these penalties will only continue that trend.

The unanticipated consequences for ratcheting up penalties is serious, and there is no evidence that it is warranted.