

1 AN ACT

2 relating to certain criminal offenses committed in relation to a  
3 federal special investigator; providing criminal penalties.

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

5 SECTION 1. Section 1.07(a), Penal Code, is amended by  
6 adding Subdivision (46-b) to read as follows:

7 (46-b) "Federal special investigator" means a person  
8 described by Article 2.122, Code of Criminal Procedure.

9 SECTION 2. The heading to Section 37.08, Penal Code, is  
10 amended to read as follows:

11 Sec. 37.08. FALSE REPORT TO PEACE OFFICER, FEDERAL SPECIAL  
12 INVESTIGATOR, OR LAW ENFORCEMENT EMPLOYEE.

13 SECTION 3. Section 37.08(a), Penal Code, is amended to read  
14 as follows:

15 (a) A person commits an offense if, with intent to deceive,  
16 he knowingly makes a false statement that is material to a criminal  
17 investigation and makes the statement to:

18 (1) a peace officer or federal special investigator  
19 conducting the investigation; or

20 (2) any employee of a law enforcement agency that is  
21 authorized by the agency to conduct the investigation and that the  
22 actor knows is conducting the investigation.

23 SECTION 4. Sections 38.04(a) and (b), Penal Code, are  
24 amended to read as follows:

1 (a) A person commits an offense if he intentionally flees  
2 from a person he knows is a peace officer or federal special  
3 investigator attempting lawfully to arrest or detain him.

4 (b) An offense under this section is a Class A misdemeanor,  
5 except that the offense is:

6 (1) a state jail felony if:

7 (A) the actor has been previously convicted under  
8 this section; or

9 (B) the actor uses a vehicle while the actor is in  
10 flight and the actor has not been previously convicted under this  
11 section;

12 (2) a felony of the third degree if:

13 (A) the actor uses a vehicle while the actor is in  
14 flight and the actor has been previously convicted under this  
15 section; or

16 (B) another suffers serious bodily injury as a  
17 direct result of an attempt by the officer or investigator from whom  
18 the actor is fleeing to apprehend the actor while the actor is in  
19 flight; or

20 (3) a felony of the second degree if another suffers  
21 death as a direct result of an attempt by the officer or  
22 investigator from whom the actor is fleeing to apprehend the actor  
23 while the actor is in flight.

24 SECTION 5. The heading to Section 38.14, Penal Code, is  
25 amended to read as follows:

26 Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE  
27 OFFICER, FEDERAL SPECIAL INVESTIGATOR, EMPLOYEE OR OFFICIAL OF

1 CORRECTIONAL FACILITY, PAROLE OFFICER, COMMUNITY SUPERVISION AND  
2 CORRECTIONS DEPARTMENT OFFICER, OR COMMISSIONED SECURITY OFFICER.

3 SECTION 6. Sections 38.14(b), (c), (d), and (e), Penal  
4 Code, are amended to read as follows:

5 (b) A person commits an offense if the person intentionally  
6 or knowingly and with force takes or attempts to take from a peace  
7 officer, federal special investigator, employee or official of a  
8 correctional facility, parole officer, community supervision and  
9 corrections department officer, or commissioned security officer  
10 the officer's, investigator's, employee's, or official's firearm,  
11 nightstick, stun gun, or personal protection chemical dispensing  
12 device with the intention of harming the officer, investigator,  
13 employee, or official or a third person.

14 (c) The actor is presumed to have known that the peace  
15 officer, federal special investigator, employee or official of a  
16 correctional facility, parole officer, community supervision and  
17 corrections department officer, or commissioned security officer  
18 was a peace officer, federal special investigator, employee or  
19 official of a correctional facility, parole officer, community  
20 supervision and corrections department officer, or commissioned  
21 security officer if:

22 (1) the officer, investigator, employee, or official  
23 was wearing a distinctive uniform or badge indicating his  
24 employment; or

25 (2) the officer, investigator, employee, or official  
26 identified himself as a peace officer, federal special  
27 investigator, employee or official of a correctional facility,

1 parole officer, community supervision and corrections department  
2 officer, or commissioned security officer.

3 (d) It is a defense to prosecution under this section that  
4 the defendant took or attempted to take the weapon from a peace  
5 officer, federal special investigator, employee or official of a  
6 correctional facility, parole officer, community supervision and  
7 corrections department officer, or commissioned security officer  
8 who was using force against the defendant or another in excess of  
9 the amount of force permitted by law.

10 (e) An offense under this section is:

11 (1) a felony of the third degree, if the defendant took  
12 a weapon described by Subsection (b) from an officer, investigator,  
13 employee, or official described by that subsection; and

14 (2) a state jail felony, if the defendant attempted to  
15 take a weapon described by Subsection (b) from an officer,  
16 investigator, employee, or official described by that subsection.

17 SECTION 7. This Act takes effect September 1, 2011.

David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I certify that H.B. No. 3423 was passed by the House on May 13, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 3423 was passed by the Senate on May 24, 2011, by the following vote: Yeas 31, Nays 0.

Patsy Saw  
Secretary of the Senate

APPROVED: 17 Jun '11  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
4PM O'CLOCK

JUN 17 2011  
Hope McDevitt  
Secretary of State