

2018 Regular Session

SENATE BILL NO. 42

BY SENATORS APPEL, ALARIO, ALLAIN, BOUDREAUX, CARTER, CHABERT, CLAITOR, DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, LONG, LUNEAU, MILKOVICH, MILLS, MIZELL, MORRELL, PEACOCK, RISER, GARY SMITH, THOMPSON, WALSWORTH AND WHITE

CRIMINAL JUSTICE. Provides relative to making a false police report that triggers a law enforcement response ("swatting"). (gov sig)

1 AN ACT

2 To enact R.S. 14:126.1.1, relative to perjury; to create the crime of false communication
3 with the intent to cause an emergency response by a law enforcement agency or
4 "swatting"; to provide definitions; to provide penalties; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:126.1.1 is hereby enacted to read as follows:

8 **§126.1.1. False communication with the intent to cause an emergency response**

9 **A. No person shall, with the intent to cause an emergency response by**
10 **any law enforcement agency or other first responder in the absence of**
11 **circumstances requiring such response, knowingly communicate or transmit**
12 **false or misleading information indicating that conduct has taken place, is**
13 **taking place, or will take place that may reasonably be believed to constitute a**
14 **violation of the criminal law of any state or the United States, or that may**
15 **reasonably be believed to endanger public health or safety.**

16 **B. Any person convicted of violating the provisions of this Section:**

17 **(1) If no emergency response results, shall be imprisoned for not more**

1 than six months, or fined not more than five hundred dollars, or both.

2 (2) Except as provided in Paragraphs (3) and (4) of this Subsection, if an
3 emergency response results, shall be imprisoned, with or without hard labor, for
4 not more than five years, or fined not less than one hundred dollars nor more
5 than one thousand dollars, or both.

6 (3) If an emergency response results and serious bodily injury occurs,
7 shall be imprisoned, with or without hard labor, for not less than eight years,
8 or fined not less than five hundred dollars nor more than two thousand five
9 hundred dollars, or both.

10 (4) If an emergency response results and the death of a person occurs,
11 shall be imprisoned at hard labor for not less than ten years nor more than forty
12 years.

13 C. Reimbursement. (1) In addition to the penalties provided by
14 Subsection B of this Section, the court shall order the defendant to reimburse
15 the appropriate party or parties for any expenses incurred for an emergency
16 response resulting from the commission of the offense.

17 (2) A person ordered to make reimbursement under this Subsection shall
18 be jointly and severally liable for such expenses with any other person who is
19 ordered to make reimbursement under this Subsection for the same expenses.

20 (3) An order of reimbursement under this Subsection shall, for the
21 purposes of enforcement, be treated as a civil judgment.

22 D. For purposes of this Section:

23 (1) "Emergency response" means any action taken by a law enforcement
24 agency or other first responder to immediately respond to any conduct or event
25 that is reasonably believed to violate the criminal law of any state or the United
26 States, or that threatens or may reasonably be believed to threaten public health
27 or safety.

28 (2) "Law enforcement agency" includes any federal, state, or local law
29 enforcement agency.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 effective on the day following such approval.

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

DIGEST

SB 42 Reengrossed

2018 Regular Session

Appel

Proposed law creates the crime of false communication with the intent to cause an emergency response, i.e., "swatting". Proposed law provides that no person can, with the intent to cause an emergency response by any law enforcement agency or other first responder in the absence of circumstances requiring such response, knowingly communicate or transmit false or misleading information indicating that conduct has taken place, is taking place, or will take place that may reasonably be believed to constitute a violation of the criminal law of any state or the U.S. or that may reasonably be believed to endanger public health or safety.

Proposed law provides the following penalties for a violation of proposed law:

- (1) If no emergency response results, imprisonment up to six months, a fine up to \$500, or both.
- (2) If an emergency response results, imprisonment, with or without hard labor, up to five years, a fine between \$100 and \$1000, or both.
- (3) If an emergency response results and serious bodily injury occurs, imprisonment, with or without hard labor, for not less than eight years, a fine between \$500 and \$2,500, or both.
- (4) If an emergency response results and death occurs, imprisonment at hard labor for not less than ten years nor more than 40 years.

Proposed law provides that in addition to the penalties provided by proposed law, the court is to order the defendant to reimburse the appropriate party or parties for any expenses incurred for an emergency response resulting from the commission of the offense. Proposed law further provides that a person ordered to make reimbursement is jointly and severally liable for such expenses with any other person who is ordered to make reimbursement for the same expenses. Proposed law further provides that an order of reimbursement pursuant to proposed law, for purposes of enforcement, is to be treated as a civil judgment.

Proposed law provides the following definitions:

- (1) "Emergency response" means any action taken by a law enforcement agency or other first responder to immediately respond to any conduct or event that is reasonably believed to violate the criminal law of any state or the U.S. or that threatens or may reasonably be believed to threaten public health or safety.
- (2) "Law enforcement agency" includes any federal, state, or local law enforcement

agency.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 14:126.1.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Change penalty when a death occurs from 2 - 5 years imprisonment to imprisonment for up to 40 years.

Senate Floor Amendments to engrossed bill

1. Changes penalty if serious bodily injury occurs from six months to 5 years, to not less than 8 years.
2. Changes penalty if death occurs to not less than 10 years nor more than 40 years.