

BILL ANALYSIS

Senate Research Center

S.B. 91
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Criminal Justice
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, if a person is convicted of assault against a family or household member, then recommits the act, the person can be charged with third degree felony assault for the act. However, if the offender commits felony assault against a family or household member, and then is convicted of simple assault against the same person, the prior felony conviction cannot be used to enhance the second offense.

S.B. 91 brings punitive consistency to Texas domestic violence law. The loopholes in current state law allow abusers to continue to abuse their families, members of their households, and significant others and receive relatively minor assault charges, even if they have previously been found guilty of felony assault. Even when prosecutors know that a person has a history of family violence, they currently cannot use that knowledge to enhance the misdemeanor charges against these violent offenders.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Reenacts and amends Section 22.01(b), Penal Code, as amended by Section 1, Chapter 294, and Section 1, Chapter 1019, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(b) Provides that an offense under Subsection (a)(1) (assault offenses) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against certain persons or in a certain manner.

SECTION 2. Amends Section 22.01(f), Penal Code, to provide that, for the purposes of Subsection (b)(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 Subsection (b)(2) is a conviction of an offense listed in Subsection (b)(2). Makes conforming changes.

SECTION 3. Amends Section 22.02(b), Penal Code, to provide that an offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if certain conditions are satisfied.

SECTION 4. Reenacts and amends Article 14.03(a), Code of Criminal Procedure, as amended by Section 2, Chapter 460, Section 2, Chapter 836, Section 1, Chapter 989, and Section 2, Chapter 1164, Acts of the 78th Legislature, Regular Session, 2003, to authorize any peace officer to arrest, without warrant, persons who the peace officer has probable cause to believe have committed an offense involving family violence. Makes conforming changes.

SECTION 5. Amends Subsections (c) and (f), Article 14.03, Code of Criminal Procedure, as follows:

(c) Makes a conforming change.

(f) Defines "family violence." Makes a conforming change.

SECTION 6. Repealer: Sections 22.01(e)(1) (defining "family") and (e)(2) (defining "household"), Penal Code.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2005.