

BILL ANALYSIS

Senate Research Center
79R787 EMT-F

S.B. 91
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Criminal Justice
4/04/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, if a person is convicted of assault against a family or household member, then recommitting 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.

As proposed, 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 a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code (Dating Violence, Family, or Household), rather than a member of a defendant's family or household, if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter 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. Makes conforming changes.

SECTION 2. Reenacts and amends Section 22.01(e), Penal Code, as amended by Section 2, Chapter 1019, and Section 1, Chapter 1028, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(e) Deletes existing text defining "family" and "household" and renumbers subsequent definitions accordingly.

SECTION 3. Amends Section 22.01(f), Penal Code, to make a conforming change.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2005.