

By: Leibowitz

H.B. No. 1388

A BILL TO BE ENTITLED

AN ACT

relating to the punishment of the offense of assault committed by a person against the person's family or household members.

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

SECTION 1. Section 22.01(b), Penal Code, as amended by Chapters 294 and 1019, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a member of the 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 against a member of the defendant's family or household under:

(A) this section;

(B) Chapter 19;

(C) Section 20.03 or 20.04;

(D) Section 21.11; or

(E) Section 22.011, 22.02, 22.021, 22.04, 22.041, 22.05, or 22.07; [~~or~~]

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or ~~[+]~~ Section 51.02(13) or (14), Family Code ~~[+ or Section 51.02(14), Family Code]~~, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract; or

(4) ~~[(3)]~~ a person the actor knows is a security officer while the officer is performing a duty as a security officer.

SECTION 2. Section 22.01(f), Penal Code, is amended to read as follows:

(f) For the purposes of this section, a defendant has been previously convicted of an offense listed in Subsection (b)(2) committed against a member of the defendant's family or a member of the defendant's household ~~[under this section]~~ if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 covered by the law in effect when the offense was committed, and the
3 former law is continued in effect for that purpose. For purposes of
4 this section, an offense was committed before the effective date of
5 this Act if any element of the offense was committed before that
6 date.

7 SECTION 4. This Act takes effect September 1, 2005.