

AN ACT

relating to the arrest and punishment of persons for certain violent offenses.

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

SECTION 1. Subsection (b), Section 22.01, Penal Code, as amended by Section 1, Chapter 294, and Section 1, Chapter 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 person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code [~~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 under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 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 [~~member of the defendant's family or household under this section~~];

1 ~~[or]~~

2 (3) a person who contracts with government to perform
3 a service in a facility as defined by Section 1.07(a)(14), Penal
4 Code, or ~~[+]~~ Section 51.02(13) or (14), Family Code ~~[+ or Section~~
5 ~~51.02(14), Family Code]~~, or an employee of that person:

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

10 (B) in retaliation for or on account of the
11 person's or employee's performance of a service within the scope of
12 the contract; or ~~[+]~~

13 (4) ~~[(3)]~~ a person the actor knows is a security
14 officer while the officer is performing a duty as a security
15 officer.

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

18 (f) For the purposes of Subsection (b)(2):

19 (1) ~~[this section]~~ a defendant has been previously
20 convicted of an offense listed in Subsection (b)(2) committed
21 against a person whose relationship to or association with the
22 defendant is described by Section 71.0021(b), 71.003, or 71.005,
23 Family Code, ~~[member of the defendant's family or a member of the~~
24 ~~defendant's household under this section]~~ if the defendant was
25 adjudged guilty of the offense or entered a plea of guilty or nolo
26 contendere in return for a grant of deferred adjudication,
27 regardless of whether the sentence for the offense was ever imposed

1 or whether the sentence was probated and the defendant was
2 subsequently discharged from community supervision; and

3 (2) a conviction under the laws of another state for an
4 offense containing elements that are substantially similar to the
5 elements of an offense listed in Subsection (b)(2) is a conviction
6 of an offense listed in Subsection (b)(2).

7 SECTION 3. Subsection (b), Section 22.02, Penal Code, is
8 amended to read as follows:

9 (b) An offense under this section is a felony of the second
10 degree, except that the offense is a felony of the first degree if:

11 (1) the actor uses a deadly weapon during the
12 commission of the assault and causes serious bodily injury to a
13 person whose relationship to or association with the defendant is
14 described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

15 (2) regardless of whether the offense is committed
16 under Subsection (a)(1) or (a)(2), the offense is committed:

17 (A) [~~(1)~~] by a public servant acting under color
18 of the servant's office or employment;

19 (B) [~~(2)~~] against a person the actor knows is a
20 public servant while the public servant is lawfully discharging an
21 official duty, or in retaliation or on account of an exercise of
22 official power or performance of an official duty as a public
23 servant;

24 (C) [~~(3)~~] in retaliation against or on account of
25 the service of another as a witness, prospective witness,
26 informant, or person who has reported the occurrence of a crime; or

27 (D) [~~(4)~~] against a person the actor knows is a

1 security officer while the officer is performing a duty as a
2 security officer.

3 SECTION 4. Subsection (a), Article 14.03, Code of Criminal
4 Procedure, as amended by Section 2, Chapter 460, Section 2, Chapter
5 836, Section 1, Chapter 989, and Section 2, Chapter 1164, Acts of
6 the 78th Legislature, Regular Session, 2003, is reenacted and
7 amended to read as follows:

8 (a) Any peace officer may arrest, without warrant:

9 (1) persons found in suspicious places and under
10 circumstances which reasonably show that such persons have been
11 guilty of some felony, violation of Title 9, Chapter 42, Penal Code,
12 breach of the peace, or offense under Section 49.02, Penal Code, or
13 threaten, or are about to commit some offense against the laws;

14 (2) persons who the peace officer has probable cause
15 to believe have committed an assault resulting in bodily injury to
16 another person and the peace officer has probable cause to believe
17 that there is danger of further bodily injury to that person;

18 (3) persons who the peace officer has probable cause
19 to believe have committed an offense defined by Section 25.07,
20 Penal Code (violation of Protective Order), or by Section 38.112,
21 Penal Code (violation of Protective Order issued on basis of sexual
22 assault), if the offense is not committed in the presence of the
23 peace officer; ~~or~~

24 (4) persons who the peace officer has probable cause
25 to believe have committed an offense involving family violence;
26 ~~[assault resulting in bodily injury to a member of the person's~~
27 ~~family or household, or]~~

1 (5) persons who the peace officer has probable cause
2 to believe have prevented or interfered with an individual's
3 ability to place a telephone call in an emergency, as defined by
4 Section 42.062(d), Penal Code, if the offense is not committed in
5 the presence of the peace officer; or [-]

6 (6) [~~(5)~~] a person who makes a statement to the peace
7 officer that would be admissible against the person under Article
8 38.21 and establishes probable cause to believe that the person has
9 committed a felony.

10 SECTION 5. Subsections (c) and (f), Article 14.03, Code of
11 Criminal Procedure, are amended to read as follows:

12 (c) If reasonably necessary to verify an allegation of a
13 violation of a protective order or of the commission of an offense
14 involving family violence [~~assault against a member of the family~~
15 ~~or household~~], a peace officer shall remain at the scene of the
16 investigation to verify the allegation and to prevent the further
17 commission of the violation or of family violence.

18 (f) In this article, "family violence" has [~~"family,"~~
19 ~~"household," and "member of a household" have~~] the meaning
20 [~~meanings~~] assigned [~~to those terms~~] by Section 71.004 [~~Chapter~~
21 ~~71~~], Family Code.

22 SECTION 6. Subdivisions (1) and (2), Subsection (e),
23 Section 22.01, Penal Code, are repealed.

24 SECTION 7. The change in law made by this Act applies only
25 to an offense committed on or after September 1, 2005. An offense
26 committed before September 1, 2005, is covered by the law in effect
27 when the offense was committed, and the former law is continued in

1 effect for that purpose. For the purposes of this section, an
2 offense was committed before September 1, 2005, if any element of
3 the offense occurred before that date.

4 SECTION 8. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 91 passed the Senate on April 14, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2005, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 91 passed the House, with amendments, on May 20, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor