

By: Hinojosa, et al.

S.B. No. 91

Substitute the following for S.B. No. 91:

By: Keel

C.S.S.B. No. 91

A BILL TO BE ENTITLED

AN ACT

relating to the punishment imposed on certain defendants charged with the offense of assault.

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

SECTION 1. 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, 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 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~~]; [~~or~~]

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

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

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

12 (4) ~~[(3)]~~ a person the actor knows is a security
13 officer while the officer is performing a duty as a security
14 officer.

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

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

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

1 supervision; and

2 (2) a conviction under the laws of another state for an
3 offense containing elements that are substantially similar to the
4 elements of an offense under this chapter is a conviction of an
5 offense under this chapter.

6 SECTION 3. Sections 22.01(e)(1) and (2), Penal Code, are
7 repealed.

8 SECTION 4. The change in law made by this Act applies only
9 to an offense committed on or after September 1, 2005. An offense
10 committed before September 1, 2005, is covered by the law in effect
11 when the offense was committed, and the former law is continued in
12 effect for that purpose. For the purposes of this section, an
13 offense was committed before September 1, 2005, if any element of
14 the offense occurred before that date.

15 SECTION 5. This Act takes effect September 1, 2005.