

1-1 By: Hinojosa, Ellis S.B. No. 91
1-2 (In the Senate - Filed November 15, 2004; January 31, 2005,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 7, 2005, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 7, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the punishment imposed on certain defendants charged
1-9 with the offense of assault.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (b), Section 22.01, Penal Code, as
1-12 amended by Section 1, Chapter 294, and Section 1, Chapter 1019, Acts
1-13 of the 78th Legislature, Regular Session, 2003, is reenacted and
1-14 amended to read as follows:

1-15 (b) An offense under Subsection (a)(1) is a Class A
1-16 misdemeanor, except that the offense is a felony of the third degree
1-17 if the offense is committed against:

1-18 (1) a person the actor knows is a public servant while
1-19 the public servant is lawfully discharging an official duty, or in
1-20 retaliation or on account of an exercise of official power or
1-21 performance of an official duty as a public servant;

1-22 (2) a person whose relationship to or association with
1-23 the defendant is described by Section 71.0021(b), 71.003, or
1-24 71.005, Family Code, [member of the defendant's family or
1-25 household,] if it is shown on the trial of the offense that the
1-26 defendant has been previously convicted of an offense under this
1-27 chapter against a person whose relationship to or association with
1-28 the defendant is described by Section 71.0021(b), 71.003, or
1-29 71.005, Family Code [member of the defendant's family or household
1-30 under this section]; [or]

1-31 (3) a person who contracts with government to perform
1-32 a service in a facility as defined by Section 1.07(a)(14), Penal
1-33 Code, or ~~[+]~~ Section 51.02(13) or (14), Family Code ~~[+ or Section~~
1-34 ~~51.02(14), Family Code]~~, or an employee of that person:

1-35 (A) while the person or employee is engaged in
1-36 performing a service within the scope of the contract, if the actor
1-37 knows the person or employee is authorized by government to provide
1-38 the service; or

1-39 (B) in retaliation for or on account of the
1-40 person's or employee's performance of a service within the scope of
1-41 the contract; or

1-42 ~~(4) [-(3)]~~ (4) a person the actor knows is a security
1-43 officer while the officer is performing a duty as a security
1-44 officer.

1-45 SECTION 2. Subsection (e), Section 22.01, Penal Code, as
1-46 amended by Section 2, Chapter 1019, and Section 1, Chapter 1028,
1-47 Acts of the 78th Legislature, Regular Session, 2003, is reenacted
1-48 and amended to read as follows:

1-49 (e) In this section:

1-50 (1) ~~["Family" has the meaning assigned by Section~~
1-51 ~~71.003, Family Code.~~

1-52 ~~[(2) "Household" has the meaning assigned by Section~~
1-53 ~~71.005, Family Code.~~

1-54 ~~[(3)]~~ (3) "Security officer" means a commissioned
1-55 security officer as defined by Section 1702.002, Occupations Code,
1-56 or a noncommissioned security officer registered under Section
1-57 1702.221, Occupations Code.

1-58 (2) ~~[(3)]~~ (2) "Sports participant" means a person who
1-59 participates in any official capacity with respect to an
1-60 interscholastic, intercollegiate, or other organized amateur or
1-61 professional athletic competition and includes an athlete,
1-62 referee, umpire, linesman, coach, instructor, administrator, or
1-63 staff member.

1-64 SECTION 3. Subsection (f), Section 22.01, Penal Code, is

2-1 amended to read as follows:

2-2 (f) For the purposes of this section, a defendant has been
2-3 previously convicted of an offense under this chapter against a
2-4 person whose relationship to or association with the defendant is
2-5 described by Section 71.0021(b), 71.003, or 71.005, Family Code,
2-6 ~~[member of the defendant's family or a member of the defendant's~~
2-7 ~~household under this section]~~ if the defendant was adjudged guilty
2-8 of the offense or entered a plea of guilty or nolo contendere in
2-9 return for a grant of deferred adjudication, regardless of whether
2-10 the sentence for the offense was ever imposed or whether the
2-11 sentence was probated and the defendant was subsequently discharged
2-12 from community supervision.

2-13 SECTION 4. The change in law made by this Act applies only
2-14 to an offense committed on or after the effective date of this Act.
2-15 An offense committed before the effective date of this Act is
2-16 covered by the law in effect when the offense was committed, and the
2-17 former law is continued in effect for that purpose. For the
2-18 purposes of this section, an offense was committed before the
2-19 effective date of this Act if any element of the offense occurred
2-20 before that date.

2-21 SECTION 5. This Act takes effect September 1, 2005.

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