

BILL ANALYSIS

H.B. 3021
By: Dukes
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Violence Against Women Act (VAWA) was designed in 1994 to give additional protection to women who were battered by their intimate partners. VAWA contains funding for programs that provide direct services to victims of sexual assault. Texas received \$7.485 million in federal VAWA dollars in FY 2006 and has received between \$6.8 million and \$7.8 million every year since FY 2003.

These federal dollars are distributed through the Criminal Justice Division of the Office of the Governor and the 24 regional Councils of Government to non-profit and local government entities that rely on VAWA dollars to assist in supporting victims and in preventing this violence from occurring. If Texas is unable to receive these federal dollars because the state cannot make the required certification, important services to survivors of rape and family violence will be lost.

In order to receive federal VAWA funds, Texas has to certify to the federal government that it has judicial administrative policies that include notification to an offender that he might not be able to possess a firearm if convicted.

H.B. 3021 is a legislative fix to the Code of Criminal Procedure that relates to the notice given to certain offenders of prohibitions under federal and state law. It insures that Texas is certified and meets the necessary judicial notification requirements pursuant to the VAWA, 42 U.S.C. 3796gg-4(e). This will bring Texas into compliance with the VAWA and will preclude any possibility of the state losing this valuable federal funding source.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

House Bill 3021 amends Article 26.13 (Plea of Guilty), Code of Criminal Procedure, is amended by adding Subsection (a)(6). The subsection provides that prior to accepting a plea of guilty or a plea of nolo contendere, the court shall admonish the defendant of the fact that if the defendant is convicted under Section 22.01 (Assault Offenses), Penal Code, punishable as a Class A misdemeanor and involving a member of the defendant's family or household, it may be unlawful for the defendant to possess a fireman or ammunition, pursuant to federal law under 18 U.S.C. 922 (g) (9) or state law under Section 46.04, Penal Code (Unlawful Possession Of Fireman).

The bill also amends Section 1, Article 42.01 (Judgment), Code of Criminal Procedure and establishes the judgment must reflect that in the event that a defendant has been convicted of an offense under Section 22.01 (Assault Offenses), Penal Code, punishable as a Class A misdemeanor and involving a member of the defendant's family or household, it may be unlawful for the defendant to possess a fireman or ammunition, pursuant to federal law under 18 U.S.C. 922 (g) (9) or state law under Section 46.04, Penal Code (Unlawful Possession Of Fireman).

EFFECTIVE DATE

September 1, 2007.