

BILL ANALYSIS

H.B. 2066
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In domestic violence cases, a victim who has been strangled is nine times more likely to be killed than one who has not. Texas prosecutors most often treat strangulation as a simple assault, punishable as a Class A misdemeanor, which does not carry mandatory jail time. However, a prosecutor may charge a defendant with aggravated assault by alleging in the indictment that the defendant's hands were used as a deadly weapon. Aggravated assault with a deadly weapon is a second degree felony, which is punishable by mandatory jail time of 2 to 20 years and a \$10,000 fine, but many prosecutors do not charge defendants with aggravated assault because they underestimate the lethal nature of strangulation or because they believe there is not enough evidence to prosecute the crime.

H.B. 2066 makes an assaultive offense committed by strangulation a third degree felony in certain cases of family violence and enhances the penalty for subsequent incidents of strangulation to a second degree felony.

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

H.B. 2066 amends the Penal Code to increase the penalty for the offense of assault from a Class A misdemeanor to a third degree felony if the offense is committed against a person who is in a dating relationship with the defendant or is a member of the defendant's family or household and is committed by impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth. The bill enhances the penalty for the offense of assault to a felony of the second degree if: the offense is committed against a person who is in a dating relationship with the defendant or is a member of the defendant's family or household; it is shown at the trial that the defendant has been previously convicted of an assaultive offense, a criminal homicide offense, kidnapping, or indecency with a child; and the offense is committed by strangulation. The bill provides that if conduct constituting the offense of assault also constitutes an offense under another law, the actor may be prosecuted under either law or under both laws.

EFFECTIVE DATE

September 1, 2009.