

BILL ANALYSIS

Senate Research Center

H.B. 2240
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, repeated episodes of violence against family and households members are treated as isolated incidents and are usually punished as misdemeanors. Family violence is an escalating situation. This bill is a preventive measure that allows for earlier classification of dangerous offenders as felons and could prevent the violence from escalating further. By providing more severe punishment, this bill could encourage victims to come forward, deter offenders, and ultimately, save lives. Knowing an abuser would be arrested, only to post bail and return home shortly there after, keeps many victims from reporting the violence. Current law allows the offender to commit more acts of violence without fear of punishment. This bill recognizes the serious, continual nature of these types of violent offenses against family and household members and punishes offenders accordingly.

H.B. 2240 amends current law relating to creating the offense of continuous violence against the family.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 25, Penal Code, by adding Section 25.11, as follows:

Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY. (a) Provides that a person commits an offense if, during a period that is 12 months or less in duration, the person two or more times engages in conduct that constitutes an offense under Section 22.01(a)(1) (relating to an offense if a person intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse) against another person or persons whose relationship to or association with the defendant is described by Section 71.0021(b) (relating to the definition of "dating relationship" as it relates to dating violence), 71.003 (Family), or 71.005 (Household), Family Code.

(b) Provides that if the jury is the trier of fact, members of the jury are not required to agree unanimously on the specific conduct in which the defendant engaged that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a) or the exact date when that conduct occurred. Requires the jury to agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a).

(c) Prohibits a defendant from being convicted in the same criminal action of another offense the victim of which is an alleged victim of the offense under Subsection (a) and an element of which is any conduct that is alleged as an element of the offense under Subsection (a) unless the other offense is charged in the alternative, occurred outside the period in which the offense alleged under Subsection (a) was committed, or is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) Prohibits a defendant from being charged with more than one count under Subsection (a) if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed against a single victim or members of the same household, as defined by Section 71.005, Family Code.

(e) Provides that an offense under this section is a felony of the third degree.

SECTION 2. Amends Section 22.01(b), Penal Code, to provide that 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 certain individuals, including a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, 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 (Criminal Homicide), or Section 20.03 (Kidnapping), 20.04 (Aggravated Kidnapping), 21.11 (Indecency with a Child), or 25.11 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.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.