

BILL ANALYSIS

C.S.H.B. 2240
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law considers each instance of domestic violence as a separate offense, each of which is usually punishable as a misdemeanor. A victim of domestic violence is likely to drop the charges or to be unwilling to testify against the offender due to the repercussions awaiting the victim when the perpetrator is released.

C.S.H.B. 2240 treats a recurring pattern of domestic violence as a pattern of criminal behavior. The bill provides that two or more domestic violence offenses occurring in a 12-month period are aggregated into a continuous violence against the family offense, punishable as a third 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

C.S.H.B. 2240 amends the Penal Code to create the third degree felony offense of continuous violence against the family for a person who, during a period that is 12 months or less in duration, two or more times engages in conduct that results in bodily injury to another person in a dating relationship with the offender, or who is a member of the offender's family or household.

C.S.H.B. 2240 provides that if the jury is the trier of fact for an offense of continuous violence against the family, the jury is not required to unanimously agree on the specific conduct in which the defendant engaged that resulted in bodily injury to another person or the exact date when that conduct occurred. The bill 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 resulted in bodily injury to the other person. The bill prohibits a defendant from being convicted in the same criminal action of another offense the victim of which is an alleged victim of a continuous violence against the family offense, and an element of which is any conduct that is alleged as an element of that offense unless the other offense is charged in the alternative, occurred outside the period in which the continuous violence against the family offense was committed, or is considered by the trier of fact to be a lesser included offense of the alleged continuous violence against the family offense. The bill prohibits the defendant from being charged with more than one count for a continuous violence against the family offense 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.

C.S.H.B. 2240 expands the conditions that constitute a third degree felony assault offense to include intentionally, knowingly, or recklessly causing bodily injury to another person associated with the offender as described in the bill if the offender has been previously convicted of a continuous violence against the family offense.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2240 differs from the original by specifying that a person commits a continuous violence against the family offense if the person two or more times within a 12-month period, rather than on more than one occasion and pursuant to the same scheme or course of conduct during that same period, engages in conduct that results in bodily injury to another person in a dating, family, or household relationship with the offender. The substitute adds a provision not in the original to provide instructions for a jury that is the trier of fact in a trial of a continuous violence against the family offense. The substitute adds provisions not in the original relating to the facts of the trial of such an offense on which a jury is authorized to and prohibited from unanimously agreeing. The substitute adds provisions not in the original prohibiting a defendant from being convicted in the same criminal action of another offense the victim of which is an alleged victim of a continuous violence against the family offense unless the other offense meets certain conditions and prohibiting a defendant from being charged with more than one count of a continuous violence against the family offense if all the alleged conduct is alleged to have been committed against a single victim or members of the same household. The substitute removes a provision in the original specifying that if conduct constituting an offense of continuous violence against the family also constitutes an offense under another Penal Code provision, the actor may be prosecuted under either provision or both provisions.

C.S.H.B. 2240 adds a provision not in the original expanding the conditions that constitute a third degree felony assault offense to include a previous conviction of continuous violence against the family.