

By: Gallego, Moody, et al.

H.B. No. 2066

A BILL TO BE ENTITLED

AN ACT

relating to enhancing penalties for assaulting a family member by strangulation or suffocation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 22.01, Penal Code, is amended by amending Subsections (b) and (f) and adding Subsections (b-1) and (g) to read as follows:

(b) 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:

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

(2) 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:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 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; or

(B) the offense is committed by impeding the normal breathing or circulation of the blood of the person by

1 applying pressure to the person's throat or neck or by blocking the
2 person's nose or mouth;

3 (3) a person who contracts with government to perform
4 a service in a facility as defined by Section 1.07(a)(14), Penal
5 Code, or Section 51.02(13) or (14), Family Code, or an employee of
6 that person:

7 (A) while the person or employee is engaged in
8 performing a service within the scope of the contract, if the actor
9 knows the person or employee is authorized by government to provide
10 the service; or

11 (B) in retaliation for or on account of the
12 person's or employee's performance of a service within the scope of
13 the contract;

14 (4) a person the actor knows is a security officer
15 while the officer is performing a duty as a security officer; or

16 (5) a person the actor knows is emergency services
17 personnel while the person is providing emergency services.

18 (b-1) Notwithstanding Subsection (b)(2), an offense under
19 Subsection (a)(1) is a felony of the second degree if:

20 (1) the offense is committed against a person whose
21 relationship to or association with the defendant is described by
22 Section 71.0021(b), 71.003, or 71.005, Family Code;

23 (2) it is shown on the trial of the offense that the
24 defendant has been previously convicted of an offense under this
25 chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a
26 person whose relationship to or association with the defendant is
27 described by Section 71.0021(b), 71.003, or 71.005, Family Code;

1 and

2 (3) the offense is committed by impeding the normal
3 breathing or circulation of the blood of the person by applying
4 pressure to the person's throat or neck or by blocking the person's
5 nose or mouth.

6 (f) For the purposes of Subsections (b)(2)(A) and (b-1)(2)
7 ~~[Subsection (b)(2)]~~:

8 (1) a defendant has been previously convicted of an
9 offense listed in those subsections ~~[Subsection (b)(2)]~~ committed
10 against a person whose relationship to or association with the
11 defendant is described by Section 71.0021(b), 71.003, or 71.005,
12 Family Code, if the defendant was adjudged guilty of the offense or
13 entered a plea of guilty or nolo contendere in return for a grant of
14 deferred adjudication, regardless of whether the sentence for the
15 offense was ever imposed or whether the sentence was probated and
16 the defendant was subsequently discharged from community
17 supervision; and

18 (2) a conviction under the laws of another state for an
19 offense containing elements that are substantially similar to the
20 elements of an offense listed in those subsections ~~[Subsection~~
21 ~~(b)(2)]~~ is a conviction of the ~~[an]~~ offense listed ~~[in Subsection~~
22 ~~(b)(2)]~~.

23 (g) If conduct constituting an offense under this section
24 also constitutes an offense under another section of this code, the
25 actor may be prosecuted under either section or both sections.

26 SECTION 2. The change in law made by this Act applies only
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is
2 covered by the law in effect when the offense was committed, and the
3 former law is continued in effect for that purpose. For purposes of
4 this section, an offense was committed before the effective date of
5 this Act if any element of the offense occurred before that date.

6 SECTION 3. This Act takes effect September 1, 2009.