

By: Lewis, Vaught, Moody, Guillen

H.B. No. 2240

A BILL TO BE ENTITLED

AN ACT

relating to creating the offense of continuous violence against the family.

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

SECTION 1. Chapter 25, Penal Code, is amended by adding Section 25.11 to read as follows:

Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY. (a) 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) against another person or persons whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code.

(b) 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. The jury must 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) A defendant may not be convicted in the same criminal action of another offense the victim of which is an alleged victim

1 of the offense under Subsection (a) and an element of which is any
2 conduct that is alleged as an element of the offense under
3 Subsection (a) unless the other offense:

4 (1) is charged in the alternative;

5 (2) occurred outside the period in which the offense
6 alleged under Subsection (a) was committed; or

7 (3) is considered by the trier of fact to be a lesser
8 included offense of the offense alleged under Subsection (a).

9 (d) A defendant may not be charged with more than one count
10 under Subsection (a) if all of the specific conduct that is alleged
11 to have been engaged in is alleged to have been committed against a
12 single victim or members of the same household, as defined by
13 Section 71.005, Family Code.

14 (e) An offense under this section is a felony of the third
15 degree.

16 SECTION 2. Section 22.01(b), Penal Code, is amended to read
17 as follows:

18 (b) An offense under Subsection (a)(1) is a Class A
19 misdemeanor, except that the offense is a felony of the third degree
20 if the offense is committed against:

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

25 (2) a person whose relationship to or association with
26 the defendant is described by Section 71.0021(b), 71.003, or
27 71.005, Family Code, if it is shown on the trial of the offense that

1 the defendant has been previously convicted of an offense under
2 this chapter, Chapter 19, or Section 20.03, 20.04, ~~[or]~~ 21.11, or
3 25.11 against a person whose relationship to or association with
4 the defendant is described by Section 71.0021(b), 71.003, or
5 71.005, Family Code;

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

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

14 (B) in retaliation for or on account of the
15 person's or employee's performance of a service within the scope of
16 the contract;

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

19 (5) a person the actor knows is emergency services
20 personnel while the person is providing emergency services.

21 SECTION 3. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 covered by the law in effect when the offense was committed, and the
25 former law is continued in effect for that purpose. For purposes of
26 this section, an offense was committed before the effective date of
27 this Act if any element of the offense occurred before that date.

1 SECTION 4. This Act takes effect September 1, 2009.