

By: Villalba

H.B. No. 1897

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for certain offenses involving family violence.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.039 to read as follows:

Art. 42.039. REIMBURSEMENT OF CONFINEMENT EXPENSES BY CERTAIN FAMILY VIOLENCE OFFENDERS. (a) In addition to any fine, cost, or fee authorized by law, a court that sentences to a term of confinement a defendant convicted of an offense under Section 22.01, Penal Code, and punished under Subsection (b-1)(2) of that section and that orders the execution of the entire sentence shall require the defendant to reimburse the Texas Department of Criminal Justice for the cost of the defendant's confinement for the period specified by this article.

(b) A court that places a defendant on community supervision, including deferred adjudication community supervision, for an offense under Section 22.01, Penal Code, punishable under Subsection (b-1)(2) of that section, shall require as a condition of community supervision that the defendant reimburse the following entities for the cost of the defendant's confinement for the period specified by this article:

(1) the county if the defendant is confined in a county jail; or

1 (2) the community supervision and corrections
2 department that is served by a community corrections facility if
3 the defendant is confined in the facility.

4 (c) The amount of reimbursement shall be the actual cost of
5 the defendant's first two years of confinement, deducting for a
6 defendant on community supervision any projected costs that would
7 have been expended for the supervision of the defendant if the
8 defendant had been on community supervision but not confined during
9 that two-year period.

10 (d) Notwithstanding Subsection (a) or (b), the court shall
11 waive the amount of reimbursement required under this article if
12 the court determines that the defendant is indigent based on the
13 defendant's sworn statement or affidavit filed with the court.

14 (e) Notwithstanding Subsection (a) or (b), based on the
15 defendant's ability to pay the court may reduce the amount of
16 reimbursement required under this article by considering:

17 (1) the defendant's employment status, earning
18 ability, and financial resources; and

19 (2) any other special circumstances that may affect
20 the defendant's ability to pay, including child support obligations
21 and including any financial responsibilities owed by the defendant
22 to dependents or restitution payments owed by the defendant to a
23 victim.

24 (f) A defendant is entitled to begin paying the
25 reimbursement under this article following the last day of the term
26 of confinement and may pay the reimbursement amount in
27 installments. The last installment may not be later than the 10th

1 anniversary of that date.

2 SECTION 2. Section 14, Article 42.12, Code of Criminal
3 Procedure, as amended by Chapter 165 (H.B. 119), Acts of the 73rd
4 Legislature, Regular Session, 1993, Chapter 910 (H.B. 2187), Acts
5 of the 76th Legislature, Regular Session, 1999, Chapter 353 (S.B.
6 1054), Acts of the 78th Legislature, Regular Session, 2003, and
7 Chapter 113 (S.B. 44), Acts of the 80th Legislature, Regular
8 Session, 2007, is amended by adding Subsection (d) to read as
9 follows:

10 (d) If the court places a defendant on deferred adjudication
11 community supervision for, or grants community supervision to a
12 defendant convicted of, an offense under Section 22.01, Penal Code,
13 that is punishable under Subsection (b-1)(2) of that section, the
14 court shall require as a condition of community supervision that
15 the defendant submit to a period of confinement equal to two years.

16 SECTION 3. Section 508.145(d)(1), Government Code, is
17 amended to read as follows:

18 (1) An inmate serving a sentence for an offense
19 described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H),
20 (I), (J), (K), (L), (M), or (N), Article 42.12, Code of Criminal
21 Procedure, an offense for which the judgment contains an
22 affirmative finding under Section 3g(a)(2) of that article, an
23 offense under Section 20A.03, Penal Code, an offense under Section
24 22.01, Penal Code, punished under Subsection (b-1)(2) of that
25 section, or an offense under Section 71.02 or 71.023, Penal Code, is
26 not eligible for release on parole until the inmate's actual
27 calendar time served, without consideration of good conduct time,

1 equals one-half of the sentence or 30 calendar years, whichever is
2 less, but in no event is the inmate eligible for release on parole
3 in less than two calendar years.

4 SECTION 4. Section 508.149(a), Government Code, is amended
5 to read as follows:

6 (a) An inmate may not be released to mandatory supervision
7 if the inmate is serving a sentence for or has been previously
8 convicted of:

9 (1) an offense for which the judgment contains an
10 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
11 Criminal Procedure;

12 (2) a first degree felony or a second degree felony
13 under Section 19.02, Penal Code;

14 (3) a capital felony under Section 19.03, Penal Code;

15 (4) a first degree felony or a second degree felony
16 under Section 20.04, Penal Code;

17 (5) an offense under Section 21.11, Penal Code;

18 (6) a felony under Section 22.011, Penal Code;

19 (7) a first degree felony or a second degree felony
20 under Section 22.02, Penal Code;

21 (8) a first degree felony under Section 22.021, Penal
22 Code;

23 (9) a first degree felony under Section 22.04, Penal
24 Code;

25 (10) a first degree felony under Section 28.02, Penal
26 Code;

27 (11) a second degree felony under Section 29.02, Penal

- 1 Code;
- 2 (12) a first degree felony under Section 29.03, Penal
- 3 Code;
- 4 (13) a first degree felony under Section 30.02, Penal
- 5 Code;
- 6 (14) a felony for which the punishment is increased
- 7 under Section 481.134 or Section 481.140, Health and Safety Code;
- 8 (15) an offense under Section 43.25, Penal Code;
- 9 (16) an offense under Section 21.02, Penal Code;
- 10 (17) a first degree felony under Section 15.03, Penal
- 11 Code;
- 12 (18) an offense under Section 43.05, Penal Code;
- 13 (19) an offense under Section 20A.02, Penal Code;
- 14 (20) an offense under Section 20A.03, Penal Code; ~~or~~
- 15 (21) a first degree felony under Section 71.02 or
- 16 71.023, Penal Code; or
- 17 (22) an offense under Section 22.01, Penal Code,
- 18 punished under Subsection (b-1)(2) of that section.

19 SECTION 5. Sections 22.01(b-1) and (f), Penal Code, are

20 amended to read as follows:

21 (b-1) Notwithstanding Subsection (b)(2), an offense under

22 Subsection (a)(1) is a felony of the second degree if~~+~~

23 ~~(1)~~ the offense is committed against a person whose

24 relationship to or association with the defendant is described by

25 Section 71.0021(b), 71.003, or 71.005, Family Code, and: ~~+~~

26 (1) ~~(2)~~ it is shown on the trial of the offense that

27 the defendant has been previously convicted of an offense under

1 this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against
2 a person whose relationship to or association with the defendant is
3 described by Section 71.0021(b), 71.003, or 71.005, Family Code,
4 [+] and

5 [~~3~~] the offense is committed by intentionally,
6 knowingly, or recklessly impeding the normal breathing or
7 circulation of the blood of the person by applying pressure to the
8 person's throat or neck or by blocking the person's nose or mouth;
9 or

10 (2) it is shown on the trial of the offense that the
11 defendant has been previously convicted two or more times of an
12 offense under this chapter, Chapter 19, or Section 20.03, 20.04, or
13 21.11 against a person whose relationship to or association with
14 the defendant is described by Section 71.0021(b), 71.003, or
15 71.005, Family Code.

16 (f) For the purposes of Subsections (b)(2)(A) and (b-1)
17 [~~(b-1)(2)~~]:

18 (1) a defendant has been previously convicted of an
19 offense listed in those subsections committed against a person
20 whose relationship to or association with the defendant is
21 described by Section 71.0021(b), 71.003, or 71.005, Family Code, if
22 the defendant was adjudged guilty of the offense or entered a plea
23 of guilty or nolo contendere in return for a grant of deferred
24 adjudication, regardless of whether the sentence for the offense
25 was ever imposed or whether the sentence was probated and the
26 defendant was subsequently discharged from community supervision;
27 and

1 (2) a conviction under the laws of another state for an
2 offense containing elements that are substantially similar to the
3 elements of an offense listed in those subsections is a conviction
4 of the offense listed.

5 SECTION 6. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 7. This Act takes effect September 1, 2015.