

A BILL TO BE ENTITLED

AN ACT

relating to penalties for certain family violence offenses and for
assultive offenses against certain persons; imposing court costs.

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

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended
by adding Section 12.475 to read as follows:

Sec. 12.475. PENALTY FOR REPEAT FAMILY VIOLENCE OFFENDERS.

(a) This section applies only to an offense that is:

(1) a Class A misdemeanor or any higher category of
offense; and

(2) committed under:

(A) Title 5, if an affirmative finding under
Article 42.013, Code of Criminal Procedure, is made in the trial of
the offense; or

(B) Section 25.11.

(b) An offense described by Subsection (a) is a felony of
the second degree if it is shown on the trial of the offense that the
actor has been previously convicted two or more times of any offense
described by that subsection. This subsection does not apply to an
offense that is a felony of the first degree or a capital felony.

(c) For the purposes of this section, a defendant has been
previously convicted of an offense described by Subsection (a) if
the defendant was adjudged guilty of the offense or entered a plea
of guilty or nolo contendere in return for a grant of deferred

1 adjudication community supervision, regardless of whether the
2 sentence for the offense was ever imposed or whether the sentence
3 was probated and the defendant was subsequently discharged from
4 community supervision.

5 (d) A previous conviction for an offense described by
6 Subsection (a) may be used for purposes of enhancement under this
7 section or enhancement under another provision of this subchapter,
8 but not under both this section and the other provision of this
9 subchapter.

10 (e) If the punishment scheme for an offense described by
11 Subsection (a) contains a specific enhancement provision
12 increasing punishment to a felony of the first degree for a
13 defendant who has previously been convicted of the offense, the
14 specific enhancement provision controls over this section.

15 SECTION 2. Section 22.01, Penal Code, is amended by adding
16 Subsection (b-2) to read as follows:

17 (b-2) Notwithstanding Subsection (b), unless an exception
18 is otherwise provided by that subsection, an offense under
19 Subsection (a)(1) is a Class A misdemeanor with a minimum term of
20 confinement of 30 days if:

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

24 (2) the offense is committed in the physical presence
25 or within the hearing of a person who is younger than 15 years of
26 age; and

27 (3) at the time of the offense, the person has

1 knowledge or reason to know that the person who is younger than 15
2 years of age is present and may see or hear the offense.

3 SECTION 3. Chapter 22, Penal Code, is amended by adding
4 Section 22.042 to read as follows:

5 Sec. 22.042. CONTINUOUS INJURY TO A CHILD, ELDERLY
6 INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) A person commits an
7 offense if, during a period that is 30 or more days but less than
8 five years in duration, the person engages two or more times in
9 conduct that constitutes an offense under Section 22.04 against one
10 or more victims.

11 (b) If a jury is the trier of fact, members of the jury are
12 not required to agree unanimously on which specific conduct engaged
13 in by the defendant constituted an offense under Section 22.04 or on
14 which exact date the defendant engaged in that conduct. The jury
15 must agree unanimously that the defendant, during a period that is
16 30 or more days but less than five years in duration, engaged in
17 conduct that constituted an offense under Section 22.04.

18 (c) If the victim of an offense under Subsection (a) is the
19 same victim as a victim of an offense under Section 22.04, a
20 defendant may not be convicted of the offense under Section 22.04 in
21 the same criminal action as the offense under Subsection (a),
22 unless the offense under Section 22.04:

- 23 (1) is charged in the alternative;
24 (2) occurred outside the period in which the offense
25 alleged under Subsection (a) was committed; or
26 (3) is considered by the trier of fact to be a lesser
27 included offense of the offense alleged under Subsection (a).

1 (d) A defendant may not be charged with more than one count
2 under Subsection (a) if all of the conduct that constitutes an
3 offense under Section 22.04 is alleged to have been committed
4 against the same victim.

5 (e) An offense under this section is a felony of the first
6 degree.

7 SECTION 4. Article 42A.504, Code of Criminal Procedure, is
8 amended by adding Subsections (e) and (f) to read as follows:

9 (e) If a defendant is convicted of and placed on community
10 supervision for, or placed on deferred adjudication community
11 supervision for, an offense punished under Section 12.475, Penal
12 Code, the judge shall require as a condition of community
13 supervision that the defendant submit to a term of confinement of
14 not less than 90 days.

15 (f) If a defendant is convicted of and placed on community
16 supervision for, or placed on deferred adjudication community
17 supervision for, an offense under Section 22.01, Penal Code, and
18 punished under Subsection (b-2) of that section, the judge shall
19 require as a condition of community supervision that the defendant
20 submit to not less than five days of continuous confinement in
21 county jail.

22 SECTION 5. Subchapter A, Chapter 102, Code of Criminal
23 Procedure, is amended by adding Article 102.0188 to read as
24 follows:

25 Art. 102.0188. ADDITIONAL COSTS ATTENDANT TO CERTAIN FAMILY
26 VIOLENCE CONVICTIONS. (a) A defendant shall pay \$500 on
27 conviction of an offense punished under Section 12.475, Penal Code.

1 (b) Costs imposed under this article are imposed without
2 regard to whether the defendant is placed on community supervision
3 after being convicted of the offense or is placed on deferred
4 adjudication community supervision for the offense.

5 (c) The clerks of the respective courts shall collect the
6 costs and pay them to the county treasurer, or to any other official
7 who discharges the duties commonly delegated to the county
8 treasurer, for deposit in a fund to be known as the family violence
9 prevention fund. A fund designated by this subsection may be used
10 only to fund family violence prevention programs, battering
11 intervention and prevention programs, family violence centers, and
12 other resources for victims of family violence in the county where
13 the court is located.

14 (d) The county family violence prevention fund shall be
15 administered by or under the direction of the commissioners court.

16 SECTION 6. Subchapter B, Chapter 102, Government Code, is
17 amended by adding Section 102.0216 to read as follows:

18 Sec. 102.0216. ADDITIONAL COURT COSTS: CODE OF CRIMINAL
19 PROCEDURE. A defendant convicted of an offense punished under
20 Section 12.475, Penal Code, shall pay a cost on conviction, in
21 addition to all other costs, to fund resources for victims of family
22 violence (Art. 102.0188, Code of Criminal Procedure) . . . \$500.

23 SECTION 7. The changes in law made by this Act apply only to
24 an offense committed on or after the effective date of this Act. An
25 offense committed before the effective date of this Act is governed
26 by the law in effect on the date the offense was committed, and the
27 former law is continued in effect for that purpose. For purposes of

1 this section, an offense was committed before the effective date of
2 this Act if any element of the offense occurred before that date.

3 SECTION 8. This Act takes effect only if a specific
4 appropriation for the implementation of the Act is provided in a
5 general appropriations act of the 85th Legislature.

6 SECTION 9. This Act takes effect September 1, 2017.