

By: Romero, Jr., Neave, Burns, et al.

H.B. No. 24

A BILL TO BE ENTITLED

AN ACT

relating to increasing criminal penalties for certain family violence offenses committed when a child is or may be present during the commission of the offense.

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

SECTION 1. Section 22.01(b-2), Penal Code, as added by Chapter 34 (S.B. 1576), Acts of the 85th Legislature, Regular Session, 2017, is redesignated as Section 22.01(b-3), Penal Code, to read as follows:

(b-3) [~~(b-2)~~] Notwithstanding Subsection (b)(2), an offense under Subsection (a)(1) is a felony of the second degree if:

(1) the offense is committed 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;

(2) 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; and

(3) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

1 SECTION 2. Section 22.01, Penal Code, is amended by adding
2 Subsection (b-4) and amending Subsection (f) to read as follows:

3 (b-4) Notwithstanding Subsection (b), unless the conduct is
4 punishable under Subsection (b)(2) or (b-3), an offense under
5 Subsection (a)(1) is a state jail felony if the offense is committed
6 against a person whose relationship to or association with the
7 defendant is described by Section 71.0021(b), 71.003, or 71.005,
8 Family Code, and the offense is committed in the physical presence
9 of another person who is younger than 18 years of age.

10 (f) For the purposes of Subsections (b)(2)(A) and (b-3)(2)
11 [~~(b-2)(2)~~]:

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

22 (2) a conviction under the laws of another state for an
23 offense containing elements that are substantially similar to the
24 elements of an offense listed in those subsections is a conviction
25 of the offense listed.

26 SECTION 3. Section 22.02(b), Penal Code, is amended to read
27 as follows:

1 (b) An offense under this section is a felony of the second
2 degree, except that the offense is a felony of the first degree if:

3 (1) the actor uses a deadly weapon during the
4 commission of the assault and causes serious bodily injury to a
5 person whose relationship to or association with the defendant is
6 described by Section 71.0021(b), 71.003, or 71.005, Family Code;

7 (2) regardless of whether the offense is committed
8 under Subsection (a)(1) or (a)(2), the offense is committed:

9 (A) by a public servant acting under color of the
10 servant's office or employment;

11 (B) against a person the actor knows is a public
12 servant while the public servant is lawfully discharging an
13 official duty, or in retaliation or on account of an exercise of
14 official power or performance of an official duty as a public
15 servant;

16 (C) in retaliation against or on account of the
17 service of another as a witness, prospective witness, informant, or
18 person who has reported the occurrence of a crime; ~~[or]~~

19 (D) against a person the actor knows is a
20 security officer while the officer is performing a duty as a
21 security officer; or

22 (E) against a person whose relationship to or
23 association with the defendant is described by Section 71.0021(b),
24 71.003, or 71.005, Family Code, and the offense is committed in the
25 physical presence of another person who is younger than 18 years of
26 age; or

27 (3) the actor is in a motor vehicle, as defined by

1 Section 501.002, Transportation Code, and:

2 (A) knowingly discharges a firearm at or in the
3 direction of a habitation, building, or vehicle;

4 (B) is reckless as to whether the habitation,
5 building, or vehicle is occupied; and

6 (C) in discharging the firearm, causes serious
7 bodily injury to any person.

8 SECTION 4. The changes in law made by this Act apply only to
9 an offense committed on or after the effective date of this Act. An
10 offense committed before the effective date of this Act is governed
11 by the law in effect on the date the offense was committed, and the
12 former law is continued in effect for that purpose. For purposes of
13 this section, an offense was committed before the effective date of
14 this Act if any element of the offense occurred before that date.

15 SECTION 5. To the extent of any conflict, this Act prevails
16 over another Act of the 86th Legislature, Regular Session, 2019,
17 relating to nonsubstantive additions to and corrections in enacted
18 codes.

19 SECTION 6. This Act takes effect September 1, 2019.