

By: Romero, Jr.

H.B. No. 24

A BILL TO BE ENTITLED

AN ACT

relating to increasing criminal penalties for certain family violence offenses committed in the presence of a child.

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.

SECTION 2. Section 22.01, Penal Code, is amended by adding

1 Subsection (b-4) and amending Subsection (f) to read as follows:

2 (b-4) Notwithstanding Subsection (b), unless the conduct is  
3 punishable under Subsection (b)(2) or (b-3), an offense under  
4 Subsection (a)(1) is a state jail felony if:

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

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

11 (3) at the time of the offense, the actor knows or has  
12 reason to know that the person who is younger than 15 years of age is  
13 present and may see or hear the offense.

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

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

26 (2) a conviction under the laws of another state for an  
27 offense containing elements that are substantially similar to the

1 elements of an offense listed in those subsections is a conviction  
2 of the offense listed.

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

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

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

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

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

15 (B) against a person the actor knows is a public  
16 servant while the public servant is lawfully discharging an  
17 official duty, or in retaliation or on account of an exercise of  
18 official power or performance of an official duty as a public  
19 servant;

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

23 (D) against a person the actor knows is a  
24 security officer while the officer is performing a duty as a  
25 security officer; or

26 (E) against a person whose relationship to or  
27 association with the defendant is described by Section 71.0021(b),

1 71.003, or 71.005, Family Code, and:

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

5 (ii) at the time of the offense, the actor  
6 knows or has reason to know that the person who is younger than 15  
7 years of age is present and may see or hear the offense; or

8 (3) the actor is in a motor vehicle, as defined by  
9 Section 501.002, Transportation Code, and:

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

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

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

16 SECTION 4. The changes in law made by this Act apply only to  
17 an offense committed on or after the effective date of this Act. An  
18 offense committed before the effective date of this Act is governed  
19 by the law in effect on the date the offense was committed, and the  
20 former law is continued in effect for that purpose. For purposes of  
21 this section, an offense was committed before the effective date of  
22 this Act if any element of the offense occurred before that date.

23 SECTION 5. To the extent of any conflict, this Act prevails  
24 over another Act of the 86th Legislature, Regular Session, 2019,  
25 relating to nonsubstantive additions to and corrections in enacted  
26 codes.

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