

By: Landgraf

H.B. No. 4175

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the prosecution and punishment of strangulation,  
3 rehabilitation of offenders and services for victims of  
4 strangulation, and procedures for law enforcement responding to a  
5 call alleging strangulation.

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

7 SECTION 1. This Act shall be known as "Dianna's Law."

8 SECTION 2. Chapter 2, Code of Criminal Procedure, is  
9 amended by adding Article 2.33 to read as follows:

10 Art. 2.33. PROCEDURES FOR RESPONDING TO CALLS INVOLVING  
11 ALLEGED OR SUSPECTED ACT OF STRANGULATION. (a) In this article:

12 (1) "Emergency medical services personnel" has the  
13 meaning assigned by Section 773.003, Health and Safety Code.

14 (2) "Strangulation" means impeding the normal  
15 breathing or circulation of the blood of a person by applying  
16 pressure to the person's throat or neck or by blocking the person's  
17 nose or mouth.

18 (b) A peace officer who responds to a call for service that  
19 involves an alleged or suspected act of strangulation shall:

20 (1) request assistance from emergency medical  
21 services personnel to evaluate and render aid to the victim of  
22 strangulation;

23 (2) request assistance from a licensed clinical social  
24 worker to assess the situation at the scene; and

1           (3) provide the victim with referral information to  
2 the appropriate support agency for purposes of receiving additional  
3 assistance.

4           (c) Notwithstanding any other law, a peace officer or  
5 licensed clinical social worker summoned to the scene may file an  
6 application on behalf of the victim for:

7           (1) a protective order under Title 4, Family Code, or  
8 Chapter 7B of this code; or

9           (2) a magistrate's order for emergency protection  
10 under Article 17.292 of this code.

11           SECTION 3. Chapter 42, Code of Criminal Procedure, is  
12 amended by adding Article 42.0132 to read as follows:

13           Art. 42.0132. FINDING OF STRANGULATION. (a) In this  
14 article, "strangulation" has the meaning assigned by Article 2.33.

15           (b) In the trial of an offense under Title 5, Penal Code, if  
16 the court determines that the offense involved strangulation, the  
17 court shall make an affirmative finding of that fact and enter the  
18 affirmative finding in the judgment of the case.

19           SECTION 4. Article 42A.504, Code of Criminal Procedure, is  
20 amended by adding Subsection (c-1) to read as follows:

21           (c-1) If the court grants community supervision to a  
22 defendant convicted of an offense for which the court has made  
23 affirmative findings under both Articles 42.013 and 42.0132, the  
24 court shall require the defendant to participate in one or more of  
25 the following to prevent recidivism:

26           (1) a battering intervention and prevention program or  
27 counseling with a provider of battering intervention and prevention

1 services if the program or provider has been accredited under  
2 Section 4A, Article 42.141, as conforming to program guidelines  
3 under that article;

4 (2) counseling sessions for the elimination of violent  
5 behavior with a licensed counselor, social worker, or other  
6 professional who has completed family violence intervention  
7 training that the community justice assistance division of the  
8 Texas Department of Criminal Justice has approved, after  
9 consultation with the licensing authorities described by Chapters  
10 152, 501, 502, 503, and 505, Occupations Code, and experts in the  
11 field of family violence;

12 (3) treatment for substance abuse or chemical  
13 dependency in a program or facility approved or licensed by the  
14 Department of State Health Services; or

15 (4) outpatient or inpatient mental health treatment  
16 under Article 42A.506.

17 SECTION 5. Subtitle B, Title 2, Health and Safety Code, is  
18 amended by adding Chapter 53 to read as follows:

19 CHAPTER 53. TASK FORCE ON FAMILY VIOLENCE

20 Sec. 53.0001. DEFINITION. In this chapter, "task force"  
21 means the task force on family violence.

22 Sec. 53.0002. ESTABLISHMENT; PRESIDING OFFICER. (a) The  
23 task force is composed of seven members appointed by the executive  
24 commissioner.

25 (b) The executive commissioner shall appoint a task force  
26 member to serve as presiding officer of the task force.

27 Sec. 53.0003. DUTIES OF TASK FORCE. The task force shall

1 meet at the call of the presiding officer to:

2 (1) examine best practices for rehabilitation of  
3 family violence offenders to prevent recidivism;

4 (2) examine best practices for supporting victims of  
5 family violence with:

6 (A) counseling and other mental health services;

7 (B) financial, educational, and professional  
8 development resources to support independence from a family  
9 violence offender; and

10 (C) assistance through the legal process; and

11 (3) create recommendations for policies that state  
12 agencies and private entities may adopt to assist victims of family  
13 violence.

14 Sec. 53.0004. REPORT. Not later than September 1 of each  
15 even-numbered year, the task force shall submit to the governor,  
16 the lieutenant governor, the speaker of the house of  
17 representatives, the presiding officers of the standing committees  
18 of the legislature having primary jurisdiction over health and  
19 human services, the executive commissioner, and the commissioner a  
20 report containing:

21 (1) the findings and the legislative, policy, and  
22 research recommendations of the task force; and

23 (2) a description of the activities of the task force.

24 SECTION 6. Section 19.02, Penal Code, is amended by adding  
25 Subsection (e) to read as follows:

26 (e) It is a rebuttable presumption that the actor intends to  
27 cause the death of an individual if the actor causes serious bodily

1 injury to the individual by impeding the normal breathing or  
2 circulation of the blood of the individual by applying pressure to  
3 the individual's throat or neck or by blocking the person's nose or  
4 mouth.

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

12 SECTION 8. Not later than January 1, 2022, the executive  
13 commissioner of the Health and Human Services Commission shall  
14 appoint the members to the task force on family violence as required  
15 by Section 53.0002, Health and Safety Code, as added by this Act.

16 SECTION 9. This Act takes effect September 1, 2021.