

## **BILL ANALYSIS**

Senate Research Center  
88R8050 MZM-F

H.B. 1589  
By: Cook; Murr (Zaffirini)  
Criminal Justice  
5/17/2023  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

According to the Texas Council on Family Violence, 169 women and 35 men were killed by an intimate partner or stalking perpetrator across 63 counties in Texas in 2021. What's more, the Texas Department of Public Safety responded to 232,840 incidents of family violence in 2021, which constituted an 8.87 percent increase from 2020. Currently, when a defendant commits assault involving family violence, the penalty is a Class A misdemeanor. If the defendant has a prior conviction of committing family violence, however, the penalty is enhanced to a third degree felony. When a defendant is arrested for committing family violence, bond conditions and a protective order may be set while the criminal case is pending. Committing any additional acts of family violence constitutes a violation of the bond conditions and the protective order, but a prior conviction of such a violation does not trigger an enhancement to the penalty for assault the way that certain other family violence-related convictions do. H.B. 1589 would remedy this situation by enhancing the penalty for certain family violence assaults if the defendant has a prior conviction of violating such bond conditions or a protective order.

H.B. 1589 amends current law relating to increasing the criminal penalty for certain family violence assaults.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 22.01(b) and (b-3), Penal Code, as follows:

(b) Provides that an offense under Subsection (a)(1) (relating to providing that a person commits an offense if the person intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) makes no changes to this subdivision;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b) (relating to defining "dating relationship"), 71.003 (Family), or 71.005 (Household), Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense that was committed:

(i) creates this subparagraph from existing text; and

(ii) under:

(a) Chapter 22 (Assaultive Offenses), Chapter 19 (Criminal Homicide), or Sections 20.03 (Kidnapping), 20.04

(Aggravated Kidnapping), 21.11 (Indecency with a Child), or 25.11 (Continuous Violence Against the Family);

(b) Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case), if the applicable violation was based on the commission of family violence as described by Subsection (a)(1) (relating to providing that a person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case and related to the safety of a victim or the safety of the community, an order issued under certain statutes, if the temporary ex parte order has been served on the person, or an order issued by another jurisdiction as provided by certain statutes, the person knowingly or intentionally commits family violence or an act in furtherance of an offense) of that section; or

(c) Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case), if any of the applicable violations were based on the commission of family violence as described by Section 25.07(a)(1); or

(B) makes no changes to this paragraph; or

(3)-(8) makes no changes to these subdivisions.

Deletes existing text providing that an offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if 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, if 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, 21.11, or 25.11 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.

(b-3) Provides that an offense under Subsection (a)(1) is a felony of the second degree, notwithstanding Subsection (b)(2), if:

(1) makes no changes to this subdivision;

(2) it is shown on the trial of the offense that the defendant has been previously convicted of an offense that was committed:

(A) creates this paragraph from existing text and makes a nonsubstantive change; and

(B) under:

(i) this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11;

(ii) Section 25.07, if the applicable violation was based on the commission of family violence as described by Subsection (a)(1) of that section; or

(iii) Section 25.072, if any of the applicable violations were based on the commission of family violence as described by Section 25.07(a)(1); and

(3) makes no changes to this subdivision.

Deletes existing text providing that an offense under Subsection (a)(1) is a felony of the second degree, notwithstanding Subsection (b)(2), if 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.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.