

BILL ANALYSIS

Senate Research Center

H.B. 1763
By: Garcia (Nelson)
Criminal Justice
5/14/1999
Engrossed

DIGEST

Currently, domestic violence is punishable under the assault statutes and makes no distinction about whether children are present when the assault occurs. H.B. 1763 would increase the punishment for assaults committed against a family member when a child is present.

PURPOSE

As proposed, H.B. 1763 increases the prosecution and punishment of assaults committed against a family member when a child is present.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 22.01, Penal Code, by amending Subsections (b) and (e) and adding Subsections (f), (g), and (h), as follows:

(b) Provides 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 member of the defendant's family or household, if it is shown on trial of the offense that the defendant: has been previously convicted of an offense against a member of the defendant's family or household under this section, or in committing the offense which caused the death of an unborn child of the member of the family or household; a state jail felony if it is shown on the trial of the offense that the offense was committed in the presence of another member of the defendant's family or household who at the time of the commission of the offense was a child younger than 17 years of age. Deletes text regarding a state jail felony. Makes conforming and nonsubstantive changes.

(e) Redefines "family," and defines "household," "death," and "unborn child."

(f) Provides that a defendant has been previously convicted of an offense against a member of the defendant's family or a member of the defendant's household under this section 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 adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision, for the purposes of this section.

(g) Sets forth conditions that do not apply to any Act consisting of conduct.

(h) Prohibits the enhancement provided by Subsection (b)(1)(B)(ii) from being construed as establishing fetal personhood.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.