

BILL ANALYSIS

Senate Research Center
76R1935 GWK-D

S.B. 24
By: Nelson
Criminal Justice
2/22/1999
As Filed

DIGEST

The 74th Legislature increased the penalty for the third assault committed on a family member to a state jail felony. A driving while intoxicated offense or stalking offense is increased on the second offense but this is not true of a second assault. This bill would increase the penalty for a second assault offense against a family to a third degree felony, and would make a probated sentence or deferred adjudication a final conviction.

PURPOSE

As proposed, S.B. 24 increases the penalty for the second offense against a family member to a third degree felony.

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 Subsection (f), to provide that an offense under Subsection (a)(1) is a third degree felony if the offense is committed against a family member, if it is shown (on the trial of the offense) that the defendant has been previously convicted of an offense against a family member under this section or Section 22.03. Deletes text regarding a state jail felony. Provides that a defendant has been previously convicted of an offense against a family member if the defendant was judged guilty of the offense or pled guilty or nolo contendere in return for deferred adjudication, regardless of whether the sentence was ever imposed or probated, and the defendant was discharged from community supervision. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Chapter 22, Penal Code, by adding Section 22.03, as follows:

Sec. 22.03. FAMILY VIOLENCE COMMITTED WITHIN VIEW OF CHILD. (a) Defines "child" and "family."

(b) Provides that a person commits an offense if the person commits assault against a family member, and a child family member witnesses the offense.

(c) Provides that an offense under Section 22.01(a)(1) or 22.01(a)(2) is a state jail felony or Class B misdemeanor, respectively.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 1999.

SECTION 5. Emergency clause.