

## BILL ANALYSIS

C.S.H.B. 2777  
By: Herrero  
Criminal Jurisprudence  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

In certain family violence cases, interested parties note that a jury is often prevented from hearing the full story of the nature of the relationship between the defendant and the alleged victim and how power and control, over time, can lead to a violent act. C.S.H.B. 2777 seeks to address this issue.

### CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### ANALYSIS

C.S.H.B. 2777 amends the Code of Criminal Procedure to authorize each party in a proceeding in the prosecution of a defendant for an assault or aggravated assault offense, or for an attempt or conspiracy to commit such an offense, that is committed against a person who is or has been in a dating relationship with the defendant or is a member of the defendant's family or household to offer testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed the offense, including testimony or evidence regarding the nature of the relationship between the actor and the alleged victim. The bill subjects this authorization to the Texas Rules of Evidence or other applicable law.

### EFFECTIVE DATE

September 1, 2015.

### COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2777 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.371 to read as follows:

Art. 38.371. EVIDENCE IN PROSECUTIONS OF OFFENSES

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.371 to read as follows:

Art. 38.371. EVIDENCE IN PROSECUTIONS OF CERTAIN

84R 27433

15.122.28

Substitute Document Number: 84R 27096

INVOLVING FAMILY VIOLENCE AND OTHER SIMILAR OFFENSES.

(a) This article applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, that is committed under the following provisions of the Penal Code 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:

- (1) Chapter 19 (Criminal Homicide);
- (2) Chapter 20 (Kidnapping, Unlawful Restraint, and Smuggling of Persons);
- (3) Chapter 20A (Trafficking of Persons);
- (4) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);
- (5) Section 21.11 (Indecency with a Child);
- (6) Section 22.01 (Assault);
- (7) Section 22.011 (Sexual Assault);
- (8) Section 22.02 (Aggravated Assault);
- (9) Section 22.021 (Aggravated Sexual Assault);
- (10) Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);
- (11) Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case);
- (12) Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence Case);
- (13) Section 25.11 (Continuous Violence Against the Family);
- (14) Section 36.05 (Tampering with Witness);
- (15) Section 36.06 (Obstruction or Retaliation);
- (16) Section 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Stalking, or Trafficking);
- (17) Section 42.07 (Harassment);
- (18) Section 42.072 (Stalking);
- (19) Section 43.05 (Compelling Prostitution); or
- (20) Section 43.25 (Sexual Performance by a Child).

(b) Notwithstanding Rules 404 and 405, Texas Rules of Evidence, evidence of other crimes, wrongs, or acts committed by the defendant against the victim of the alleged offense shall be admitted for its bearing on relevant matters, including:

- (1) the state of mind of the defendant and the victim;
- (2) the previous and subsequent

ASSAULTIVE OFFENSES INVOLVING FAMILY VIOLENCE.

(a) This article applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, that is committed under Section 22.01 or 22.02, Penal Code, 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) In the prosecution of an offense described by Subsection (a), subject to the Texas Rules of Evidence or other applicable law, each party may offer testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed the offense described by Subsection (a), including testimony or

relationship between the defendant and the victim; and  
(3) the character of the defendant and acts performed in conformity with the character of the defendant.

(c) Notwithstanding Rules 404 and 405, Texas Rules of Evidence, in the trial of an alleged offense described by Subsection (a), evidence that the defendant has committed a separate offense described by Subsection (a) against an individual other than the victim of the instant alleged offense may be admitted for any bearing the evidence has on relevant matters, including the character of the defendant and acts performed in conformity with the character of the defendant.

(d) On timely request by the defendant within a reasonable period before trial, the state shall, within a reasonable period after the defendant's request, provide the defendant with notice of the state's intent to introduce in the case in chief evidence described by Subsection (b) or (c), except that the state is not required to provide the defendant with notice under this subsection if the applicable evidence arose in the same criminal transaction as the instant alleged offense.

(e) This article does not limit the admissibility of evidence of extraneous crimes, wrongs, or acts under any other applicable law.

SECTION 2. The change in law made by this Act applies to the admissibility of evidence in a criminal proceeding that commences on or after the effective date of this Act. The admissibility of evidence in a criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

evidence regarding the nature of the relationship between the actor and the alleged victim.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.