

SUBJECT: Increasing the criminal penalty for certain family violence assaults

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Moody, Bhojani, Bowers, Darby, Harrison

0 nays

4 absent — Cook, Leach, C. Morales, Schatzline

WITNESSES: For — Lindy Borchardt, Tarrant County District Attorney Phil Sorrells; (*Registered, but did not testify*: Gerald Hodges, City of Grand Prairie; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Ray Hunt, HPOU; Carlos Ortiz, San Antonio Police Officers Association; Esmeralda Flores, Texas Council on Family Violence; John Wilkerson, Texas Municipal Police Association; Jose Escribano, Travis County Constable Precinct 3; David Kohlert; Thomas Parkinson)

Against — None

BACKGROUND: Penal Code sec. 22.01(b) and (b-3) establishes the conditions under which the criminal penalty for a family violence related assault is enhanced.

An offense of assault against a person with whom the defendant had a family, dating, or household relationship or association would be enhanced from a Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if:

- the defendant has been previously convicted of certain offenses against a person with whom the defendant had a family, dating, or household relationship or association; or
- the offense was committed by intentionally, knowingly or recklessly impeding the normal breathing or circulation of the

blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

An offense of assault against a person with whom the defendant had a family, dating, or household relationship or association would be enhanced from a Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if:

- if the defendant has been previously convicted of certain offenses against a person with whom the defendant had a family, dating, or household relationship or association; and
- the offense was committed by intentionally, knowingly or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

**DIGEST:** HB 1589 would add certain violations of court orders and bond conditions to the applicable offenses that enhance the criminal penalty for family violence related assault.

HB 1589 would enhance from a Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) the penalty for assault against a person with whom the defendant had a family, dating, or household relationship or association if the defendant was convicted of violating or repeatedly violating certain court orders or bond conditions by committing family violence.

The bill would enhance the penalty to a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the defendant had been previously convicted of violating or repeatedly violating certain court orders or bond conditions by committing family violence and the offense was committed by intentionally, knowingly or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the

person's nose or mouth.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.

**SUPPORTERS  
SAY:**

HB 1589 would provide prosecutors with the tools to appropriately penalize repeat offenders of family violence. Under current law, the penalty for an assault involving family violence is a Class A misdemeanor. If the defendant was previously convicted of family violence, the penalty is enhanced to a third-degree felony. When an individual is arrested for family violence, bond conditions and protective orders can be used to protect the family while the case is pending. Any additional acts of family violence constitute a violation of the bond conditions or the protective order, as applicable. Currently, a prior conviction of such a violation does not allow a prosecutor to enhance the penalty for family violence assault. HB 1589 would address this gap in the law, which would better protect victims from defendants who have exhibited patterns of violence.

**CRITICS  
SAY:**

No concerns identified.