

## **BILL ANALYSIS**

Senate Research Center  
85R22875 JSC-F

C.S.S.B. 900  
By: Huffman  
State Affairs  
4/24/2017  
Committee Report (Substituted)

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

Interested parties assert that legislative action is necessary to combat the recent increase in family violence cases in Texas. In an effort to prevent repeat occasions of family violence, S.B. 900 seeks to enhance the penalty for assault causing bodily injury to a person with whom the offender is in a dating, family, or household relationship if the offender has been previously convicted on more than two occasions of certain offenses against such a person. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 900 amends current law relating to enhanced penalties for certain family violence offenses and imposes court costs.

### **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 Subchapter D, Chapter 12, Penal Code, by adding Section 12.475, as follows:

Sec. 12.475. PENALTY FOR REPEAT FAMILY VIOLENCE OFFENDERS. (a) Provides that this section applies only to certain offenses.

(b) Provides that an offense described by Subsection (a) is a felony of the second degree if it is shown on the trial of the offense that the actor has been previously convicted two or more times of any offense described by that subsection. Provides that this subsection does not apply to an offense that is a felony of the first degree or a capital felony.

(c) Provides that, for the purposes of this section, a defendant has been previously convicted of an offense described by Subsection (a) 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 community supervision, 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.

(d) Authorizes a previous conviction of an offense described by Subsection (a) to be used for purposes of enhancement under this section or enhancement under another provision of this subchapter (Exceptional Sentences), but not under both this section and the other provision of this subchapter.

(e) Provides that, if the punishment scheme for an offense described by Subsection (a) contains a specific enhancement provision increasing punishment to a felony of the first degree for a defendant who has previously been convicted of the offense, the specific enhancement provision controls over this section.

SECTION 2. Amends Section 22.01, Penal Code, by adding Subsection (b-2), as follows:

(b-2) Provides that, notwithstanding Subsection (b) (relating to providing 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 certain individuals), unless an exception is otherwise provided by that subsection, an offense under Subsection (a)(1) is a Class A misdemeanor with a minimum term of confinement of 30 days if:

(1) the offense is committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b) (relating to the definition of "dating relationship"), 71.003 (Family), or 71.005 (Household), Family Code;

(2) the offense is committed in the physical presence or within the hearing of a person who is younger than 15 years of age; and

(3) at the time of the offense, the person has knowledge or reason to know that the person who is younger than 15 years of age is present and may see or hear the offense.

SECTION 3. Amends Article 42A.504, Code of Criminal Procedure, by adding Subsections (e) and (f), as follows:

(e) Requires the judge, if a defendant is convicted of and placed on community supervision for, or placed on deferred adjudication community supervision for, an offense punished under Section 12.475, Penal Code, to require as a condition of community supervision that the defendant submit to a term of confinement not less than 90 days.

(f) Requires the judge, if a defendant is convicted of and placed on community supervision for, or placed on deferred adjudication community supervision for, an offense under Section 22.01, Penal Code, and punished under Subsection (b-2) of that section, to require as a condition of community supervision that the defendant submit to not less than five days of continuous confinement in county jail.

SECTION 4. Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.0188, as follows:

Art. 102.0188. ADDITIONAL COSTS ATTENDANT TO CERTAIN FAMILY VIOLENCE CONVICTIONS. (a) Requires a defendant to pay \$500 on conviction of an offense punished under Section 12.475, Penal Code.

(b) Provides that costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or is placed on deferred adjudication community supervision for the offense.

(c) Requires the clerks of the respective courts to collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer, for deposit in a fund to be known as the family violence prevention fund. Authorizes a fund designated by this subsection to be used only to fund certain resources.

(d) Requires that the county family violence prevention fund be administered by or under the direction of the commissioners court.

SECTION 5. Amends Subchapter B, Chapter 102, Government Code, by adding Section 102.0216, as follows:

Sec. 102.0216. ADDITIONAL COURT COSTS: CODE OF CRIMINAL PROCEDURE. Requires a defendant convicted of an offense punished under Section 12.475, Penal

Code, to pay a cost on conviction, in addition to all other costs, to fund resources for victims of family violence (Art. 102.0188, Code of Criminal Procedure) ... \$500.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Provides that this Act takes effect only if a specific appropriation for the implementation of this Act is provided in a general appropriations act of the 85th Legislature.

SECTION 8. Effective date: September 1, 2017.