

- SUBJECT:** Adding victim categories to enhanced punishments for assault
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Peña, Riddle, Escobar, Hodge, Mallory Caraway, Pierson, Talton
0 nays
2 absent — Vaught, Moreno
- SENATE VOTE:** On final passage, April 26 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Laura Wolf, Texas Council on Family Violence; (*Registered, but did not testify*: Will Harrell, ACLU, NAACP, LULAC)
Against — None
- BACKGROUND:** In 2005, the 79th Legislature enacted SB 91 by Hinojosa, which amended the Penal Code to require an assault offense to be third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000), instead of a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), if:
- the offense was committed against a person who is related or associated to the defendant by family (Family Code, sec. 71.003), dating relationship (sec. 71.0021(b)), or household (sec. 71.005); and
 - the defendant previously had been convicted of criminal homicide, kidnapping, aggravated kidnapping, or indecency with a child against a person related or associated by family, dating relationship, or household.
- A person is considered previously to have been convicted of an offense if:
- the defendant was adjudged guilty of the offense or entered a plea of guilty or no contest in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever

- imposed or was probated; or
- the defendant was convicted in another state of a substantially similar offense.

In addition, SB 91 added that an aggravated assault offense is a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000), rather than a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000), if the actor used a deadly weapon during the commission of the assault and caused serious bodily injury to a person whose relationship to or association with the defendant is described as a family, dating, or household relationship.

Family Code, sec. 71.006 defines “member of a household” to include a person who previously lived in a household.

DIGEST:

SB 1558 would include “member of a household,” as defined in Family Code, sec. 71.006, in the description of the defendant’s relationship to the victim for which penalties could be enhanced for assault or aggravated assault offenses.

The bill would take effect September 1, 2007, and would apply to an offense committed on or after that date.

**SUPPORTERS
SAY:**

SB 1558 would fix an unintended omission from last session’s changes to the Penal Code. Because sec. 71.006, which defines a member of a household to include a person who previously lived in a household, is not specifically referenced in the statute, courts have found that assault and aggravated assault committed against former household members does not trigger enhanced penalties. Without proving a dating relationship between the victim and defendant, the prosecution cannot seek a first-degree felony in the case of aggravated assault or a third-degree felony for simple assault. The bill would correct this oversight and make it easier for prosecutors to seek enhanced penalties for incidents of assault between a former live-in partner and the defendant abuser.

**OPPONENTS
SAY:**

No apparent opposition.