

BILL ANALYSIS

Senate Research Center
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S.B. 1324
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In domestic violence cases, strangulation is statistically correlated with an increased risk of lethality. Ten percent of violent deaths in the United States are due to strangulation, with six female victims to each male. Where strangulation does not lead to death, it is an act that serves as a statistical indicator that the perpetrator is more likely to commit future acts of aggression against the victim. In fact, a domestic violence victim who has been strangled is nine times more likely to eventually be killed than one who has not.

As proposed, S.B. 1324 provides that the first instance of domestic violence strangulation is punishable as a third degree felony, and that domestic violence strangulation by a perpetrator previously convicted of domestic violence is a second degree felony.

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 Section 22.01, Penal Code, by amending Subsections (b) and (f) and adding Subsections (b-1) and (g), as follows:

(b) Provides that an offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if 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, if the offense is committed by 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. Makes a nonsubstantive change.

(b-1) Provides that, notwithstanding Subsection (b)(2), an offense under Subsection (a)(1) is a felony of the second degree if the offense is committed 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; it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19 (Criminal Homicide), or Section 20.03 (Kidnapping), 20.04 (Aggravated Kidnapping), or 21.11 (Indecency With a Child) 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; and the offense is committed by 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.

(f) Provides that for the purposes of Subsections (b)(2)(A) and (b-1)(2), rather than Subsection (b)(2), a defendant has been previously convicted of an offense listed in those subsections, rather than Subsection (b)(2), committed 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, 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, 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;

and a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in those subsections is a conviction of the offense listed. Makes conforming changes.

(g) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under another section of this code, to be prosecuted under either section or both sections.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.