

# Charging Decisions in Family Violence Cases

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# **FAMILY MEMBER**

**Current or previous  
dating relationship**

**Household member**

**Family member**

# **NOT a Family Member**

One night stand

Inmates housed together

# TPC §22.01(a)(1)

## Assault bodily injury family violence

- On or about a certain date
- In your County, Texas
- Defendant
- Intentionally, knowingly, or recklessly causes bodily injury to another
- And the victim was a member of the family or household of the suspect
- Class A Misdemeanor

# TPC §22.01(b)(2) (A)(i) and (ii)

## Assault bodily injury FV- Enhanced

- On or about a certain date
- In your County, Texas
- Defendant
- Intentionally, knowingly, or recklessly causes bodily injury to another
- And the victim was a member of the family or household of the suspect
- 3<sup>rd</sup> Degree Felony

# PRIOR CONVICTION

- •Abandon/Endanger Child
- •Agg. Assault
- •Agg. Kidnapping
- •Agg. Sexual Assault
- •Aiding Suicide
- •Assault Bodily Injury
- •Assault by Offensive Contact
- •Assault by Threat
- •Capital Murder
- •Continuous Violence Against the Family (aka Assault Family Violence 2+ w/in 12 Mos)
- •Criminally Negligent Homicide
- •Deadly Conduct
- •Indecency with a Child
- •Indecent Assault
- •Injury to Child, Disabled or Elderly
- •Kidnapping
- •Manslaughter
- •Murder
- •Sexual Assault
- •Terroristic Threat

# PRIOR CONVICTION

- The prior conviction must also have been committed against a member of the defendant's family, a member of the defendant's household, or a person with whom the defendant has or has had a dating relationship.

**New Family  
Violence  
Enhancement  
(HB 1589)**

**Effective  
September 1,  
2023**

TPC §22.01(b)(2)(A)(ii)(b&c)

**ASSAULT FAMILY MEMBER**

can now be enhanced to a **3<sup>rd</sup> degree felony** if the defendant has a prior conviction for *Violation of a Protective Order* or *Bond Condition* in a Family Violence case



Includes  
deferred  
adjudication



Includes cases  
where no  
AFFV made



May use prior  
from  
jurisdiction  
outside TX



May prove  
through  
extrinsic  
evidence

**PRIOR  
CONVICTION**

# TPC §22.01(b)(2)(B)

## Assault bodily injury FV- Impeding Breath

- In your county, Texas
- Defendant
- Intentionally, knowingly or recklessly
- Caused bodily injury
- By impeding breath or circulation of the blood
  - By applying pressure to the complainant's throat or neck, or
  - By blocking the complainant's nose or mouth
- Family member, household, or dating
- 3<sup>rd</sup> degree felony UNLESS prior conviction = 2<sup>nd</sup> degree felony

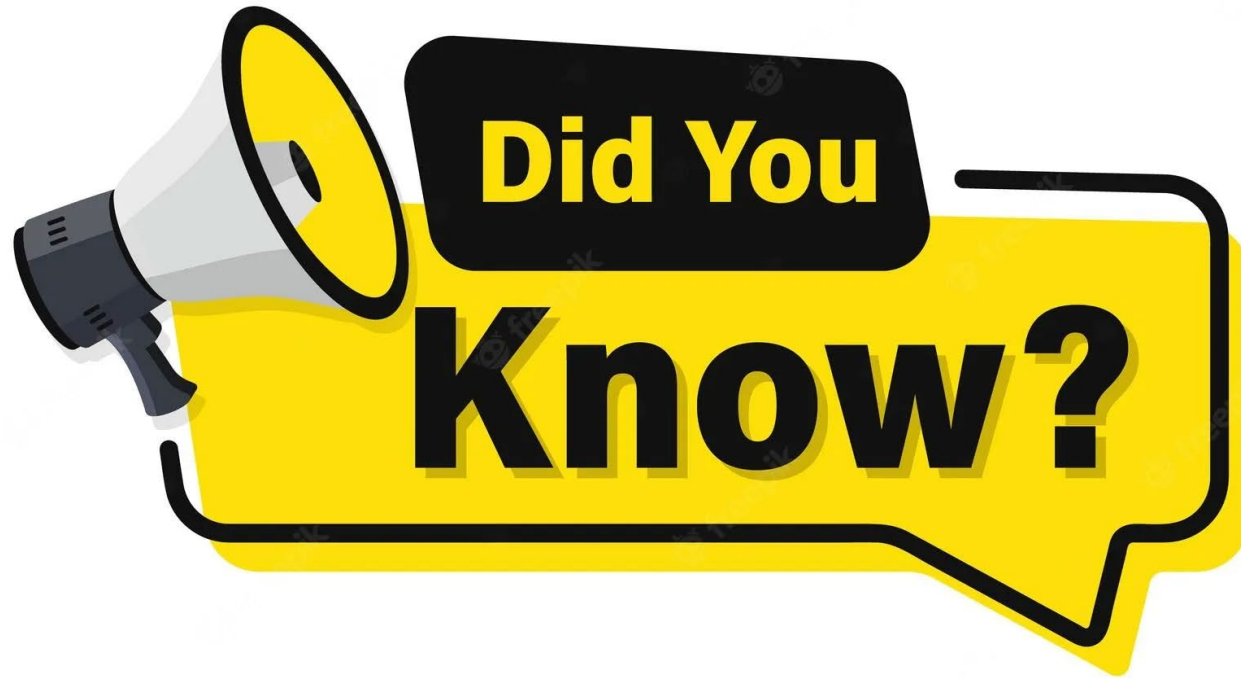
# TPC §22.01(b)(8)

## Assault on a Pregnant Person

- In Your County, Texas
- The defendant
- Intentionally, knowingly, or recklessly
- Caused bodily injury to the complainant
- Who the defendant knew was pregnant at the time of the offense
- By manner and means

# Continuous violence against the family

- On or about a certain date
- In Your County, Texas
- The Defendant
- Intentionally, knowingly, and recklessly
- Cause bodily injury to another
- Household, Family, or Dating relationship
- The Defendant commits two assaults during a period that was 12 months or less in duration
- 3<sup>rd</sup> Degree Felony



**Can be two different victims**

# Aggravated Assault- Deadly Weapon

- On or about a certain date
- In Fort Bend County, Texas
- A particular person
- Commits assault
  - (1) Intentionally, knowingly, or recklessly causes bodily injury to another OR
  - (2) intentionally or knowingly threatens another with imminent bodily injury
- And the person uses or exhibits a deadly weapon during the commission of the assault
- 2<sup>nd</sup> Degree

# Aggravated Assault- Deadly Weapon – FV/SBI

- On or about a certain date
  - In Fort Bend County, Texas
  - A particular person
  - Intentionally, knowingly, or recklessly
  - Causes **SERIOUS** bodily injury
  - With a deadly weapon.
  - Family/household member or dating relationship
- 
- 1<sup>st</sup> Degree Felony
  - Good/Just alternative to Murder



**Just because you can  
doesn't mean you should.**

*Mocah*  
Sherrilyn Kenyon



# **Violation of Protective Order (or bond conditions in FV case)**

## **TPC §25.07/25.072**

- **In your county, Texas**
- **Defendant**
- **Intentionally or knowingly**
- **Did violate a protective order or bond condition in a family violence case by:**
  - Communicating a threat to complainant
  - Communicating a threat through a 3<sup>rd</sup> party
  - Going to a protected residence
  - Going to a protected childcare facility
  - Possessing a firearm

# **Violation of Protective Order (or bond conditions in FV case)**

## **TPC §25.07/25.072**

### **• Elements:**

- In your county, Texas
- Defendant
- Intentionally or knowingly
- Did violate a protective order or bond condition in family violence case by:
  - Committing assault
  - Committing sexual assault
  - Committing an act in furtherance of stalking
  - Any violation with 2 prior convictions of VPO

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*Thank  
you!*