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Overview

This bill adds the crime of strangulation of a family or household member to a list of crimes that affect how custody and parenting time are determined. The current list of crimes includes a number of violent crimes and crimes against children.

Section

1 **Applicable crimes.** Adds the crime of felony assault by strangulation against a family member to the list of crimes a parent has been convicted of committing that shift the burden for determining custody and parenting time. Existing law requires the court to appoint a guardian ad litem to look out for the child's best interest in these cases.

When the parent of a child has been convicted of certain violent crimes and crimes against children and the crime occurred in the last five years or the person is still incarcerated, on probation, under supervised release, or where the victim of the crime was a household member, then the presumption is against the parent convicted of the crime and they have to prove that visiting with the child or having custody is in the child's best interest.

In cases where the victim of the crime was a family or household member, the parent convicted must prove it is in the child's best interest by clear and convincing evidence, which is a high standard than most civil family law cases.

Section

2

Application. Requires a sentencing criminal court to refer a case to family court if the person being sentenced has been convicted of the crime of felony assault by strangulation against a family member and the person convicted has custody or visitation with their child and there is no pending family court action. Existing law requires that the court appoint a guardian ad litem in these family law cases.