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et al.

H.B. No. 2715

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a prohibition on following an individual and tracking
3 or monitoring the individual's personal property or motor vehicle
4 and to the criminal prosecution of that conduct.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 7B.005(a), Code of Criminal Procedure,
7 is amended to read as follows:

8 (a) In a protective order issued under this subchapter, the
9 court may:

10 (1) order the alleged offender to take action as
11 specified by the court that the court determines is necessary or
12 appropriate to prevent or reduce the likelihood of future harm to
13 the applicant or a member of the applicant's family or household; or

14 (2) prohibit the alleged offender from:

15 (A) communicating:

16 (i) directly or indirectly with the
17 applicant or any member of the applicant's family or household in a
18 threatening or harassing manner; or

19 (ii) in any manner with the applicant or any
20 member of the applicant's family or household except through the
21 applicant's attorney or a person appointed by the court, if the
22 court finds good cause for the prohibition;

23 (B) going to or near the residence, place of
24 employment or business, or child-care facility or school of the

1 applicant or any member of the applicant's family or household;

2 (C) engaging in conduct directed specifically
3 toward the applicant or any member of the applicant's family or
4 household, including following the person, that is reasonably
5 likely to harass, annoy, alarm, abuse, torment, or embarrass the
6 person; ~~and~~

7 (D) possessing a firearm, unless the alleged
8 offender is a peace officer, as defined by Section 1.07, Penal Code,
9 actively engaged in employment as a sworn, full-time paid employee
10 of a state agency or political subdivision; and

11 (E) tracking or monitoring personal property or a
12 motor vehicle in the possession of the applicant or of a member of
13 the applicant's family or household, without the applicant's
14 effective consent, including by:

15 (i) using a tracking application on a
16 personal electronic device in the possession of the applicant or
17 the family or household member or using a tracking device; or

18 (ii) physically following the applicant or
19 the family or household member or causing another to physically
20 follow the applicant or member.

21 SECTION 2. Article 17.292(c), Code of Criminal Procedure,
22 is amended to read as follows:

23 (c) The magistrate in the order for emergency protection may
24 prohibit the arrested party from:

25 (1) committing:

26 (A) family violence or an assault on the person
27 protected under the order; or

1 (B) an act in furtherance of an offense under
2 Section 20A.02 or 42.072, Penal Code;

3 (2) communicating:

4 (A) directly with a member of the family or
5 household or with the person protected under the order in a
6 threatening or harassing manner;

7 (B) a threat through any person to a member of the
8 family or household or to the person protected under the order; or

9 (C) if the magistrate finds good cause, in any
10 manner with a person protected under the order or a member of the
11 family or household of a person protected under the order, except
12 through the party's attorney or a person appointed by the court;

13 (3) going to or near:

14 (A) the residence, place of employment, or
15 business of a member of the family or household or of the person
16 protected under the order; or

17 (B) the residence, child care facility, or school
18 where a child protected under the order resides or attends; ~~or~~

19 (4) possessing a firearm, unless the person is a peace
20 officer, as defined by Section 1.07, Penal Code, actively engaged
21 in employment as a sworn, full-time paid employee of a state agency
22 or political subdivision; or

23 (5) tracking or monitoring personal property or a
24 motor vehicle in the possession of the person protected under the
25 order or of a member of the family or household of the person
26 protected under the order, without the protected person's effective
27 consent, including by:

1 (A) using a tracking application on a personal
2 electronic device in the possession of the person or the family or
3 household member or using a tracking device; or

4 (B) physically following the person or the family
5 or household member or causing another to physically follow the
6 person or member.

7 SECTION 3. Article 17.49(b), Code of Criminal Procedure, is
8 amended to read as follows:

9 (b) A magistrate may require as a condition of release on
10 bond that a defendant charged with an offense involving family
11 violence:

12 (1) refrain from going to or near a residence, school,
13 place of employment, or other location, as specifically described
14 in the bond, frequented by an alleged victim of the offense;

15 (2) carry or wear a global positioning monitoring
16 system device and, except as provided by Subsection (h), pay a
17 reimbursement fee for the costs associated with operating that
18 system in relation to the defendant; ~~or~~

19 (3) except as provided by Subsection (h), if the
20 alleged victim of the offense consents after receiving the
21 information described by Subsection (d), pay a reimbursement fee
22 for the costs associated with providing the victim with an
23 electronic receptor device that:

24 (A) is capable of receiving the global
25 positioning monitoring system information from the device carried
26 or worn by the defendant; and

27 (B) notifies the victim if the defendant is at or

1 near a location that the defendant has been ordered to refrain from
2 going to or near under Subdivision (1); or

3 (4) refrain from tracking or monitoring personal
4 property or a motor vehicle in the possession of the alleged victim
5 of the offense, without the victim's effective consent, including
6 by:

7 (A) using a tracking application on a personal
8 electronic device in the possession of the victim or using a
9 tracking device; or

10 (B) physically following the victim or causing
11 another to physically follow the victim.

12 SECTION 4. Section 6.501(a), Family Code, is amended to
13 read as follows:

14 (a) After the filing of a suit for dissolution of a
15 marriage, on the motion of a party or on the court's own motion, the
16 court may grant a temporary restraining order without notice to the
17 adverse party for the preservation of the property and for the
18 protection of the parties as necessary, including an order
19 prohibiting one or both parties from:

20 (1) intentionally communicating in person or in any
21 other manner, including by telephone or another electronic voice
22 transmission, video chat, in writing, or electronic messaging, with
23 the other party by use of vulgar, profane, obscene, or indecent
24 language or in a coarse or offensive manner, with intent to annoy or
25 alarm the other party;

26 (2) threatening the other party in person or in any
27 other manner, including by telephone or another electronic voice

1 transmission, video chat, in writing, or electronic messaging, to
2 take unlawful action against any person, intending by this action
3 to annoy or alarm the other party;

4 (3) placing a telephone call, anonymously, at an
5 unreasonable hour, in an offensive and repetitious manner, or
6 without a legitimate purpose of communication with the intent to
7 annoy or alarm the other party;

8 (4) intentionally, knowingly, or recklessly causing
9 bodily injury to the other party or to a child of either party;

10 (5) threatening the other party or a child of either
11 party with imminent bodily injury;

12 (6) intentionally, knowingly, or recklessly
13 destroying, removing, concealing, encumbering, transferring, or
14 otherwise harming or reducing the value of the property of the
15 parties or either party with intent to obstruct the authority of the
16 court to order a division of the estate of the parties in a manner
17 that the court deems just and right, having due regard for the
18 rights of each party and any children of the marriage;

19 (7) intentionally falsifying a writing or record,
20 including an electronic record, relating to the property of either
21 party;

22 (8) intentionally misrepresenting or refusing to
23 disclose to the other party or to the court, on proper request, the
24 existence, amount, or location of any tangible or intellectual
25 property of the parties or either party, including electronically
26 stored or recorded information;

27 (9) intentionally or knowingly damaging or destroying

1 the tangible or intellectual property of the parties or either
2 party, including electronically stored or recorded information;

3 (10) intentionally or knowingly tampering with the
4 tangible or intellectual property of the parties or either party,
5 including electronically stored or recorded information, and
6 causing pecuniary loss or substantial inconvenience to the other
7 party;

8 (11) except as specifically authorized by the court:

9 (A) selling, transferring, assigning,
10 mortgaging, encumbering, or in any other manner alienating any of
11 the property of the parties or either party, regardless of whether
12 the property is:

13 (i) personal property, real property, or
14 intellectual property; or

15 (ii) separate or community property;

16 (B) incurring any debt, other than legal expenses
17 in connection with the suit for dissolution of marriage;

18 (C) withdrawing money from any checking or
19 savings account in a financial institution for any purpose;

20 (D) spending any money in either party's
21 possession or subject to either party's control for any purpose;

22 (E) withdrawing or borrowing money in any manner
23 for any purpose from a retirement, profit sharing, pension, death,
24 or other employee benefit plan, employee savings plan, individual
25 retirement account, or Keogh account of either party; or

26 (F) withdrawing or borrowing in any manner all or
27 any part of the cash surrender value of a life insurance policy on

1 the life of either party or a child of the parties;

2 (12) entering any safe deposit box in the name of or
3 subject to the control of the parties or either party, whether
4 individually or jointly with others;

5 (13) changing or in any manner altering the
6 beneficiary designation on any life insurance policy on the life of
7 either party or a child of the parties;

8 (14) canceling, altering, failing to renew or pay
9 premiums on, or in any manner affecting the level of coverage that
10 existed at the time the suit was filed of, any life, casualty,
11 automobile, or health insurance policy insuring the parties'
12 property or persons, including a child of the parties;

13 (15) opening or diverting mail or e-mail or any other
14 electronic communication addressed to the other party;

15 (16) signing or endorsing the other party's name on any
16 negotiable instrument, check, or draft, including a tax refund,
17 insurance payment, and dividend, or attempting to negotiate any
18 negotiable instrument payable to the other party without the
19 personal signature of the other party;

20 (17) taking any action to terminate or limit credit or
21 charge credit cards in the name of the other party;

22 (18) discontinuing or reducing the withholding for
23 federal income taxes from either party's wages or salary;

24 (19) destroying, disposing of, or altering any
25 financial records of the parties, including a canceled check,
26 deposit slip, and other records from a financial institution, a
27 record of credit purchases or cash advances, a tax return, and a

1 financial statement;

2 (20) destroying, disposing of, or altering any e-mail,
3 text message, video message, or chat message or other electronic
4 data or electronically stored information relevant to the subject
5 matter of the suit for dissolution of marriage, regardless of
6 whether the information is stored on a hard drive, in a removable
7 storage device, in cloud storage, or in another electronic storage
8 medium;

9 (21) modifying, changing, or altering the native
10 format or metadata of any electronic data or electronically stored
11 information relevant to the subject matter of the suit for
12 dissolution of marriage, regardless of whether the information is
13 stored on a hard drive, in a removable storage device, in cloud
14 storage, or in another electronic storage medium;

15 (22) deleting any data or content from any social
16 network profile used or created by either party or a child of the
17 parties;

18 (23) using any password or personal identification
19 number to gain access to the other party's e-mail account, bank
20 account, social media account, or any other electronic account;

21 (24) terminating or in any manner affecting the
22 service of water, electricity, gas, telephone, cable television, or
23 any other contractual service, including security, pest control,
24 landscaping, or yard maintenance at the residence of either party,
25 or in any manner attempting to withdraw any deposit paid in
26 connection with any of those services;

27 (25) excluding the other party from the use and

1 enjoyment of a specifically identified residence of the other
2 party; [~~or~~]

3 (26) entering, operating, or exercising control over a
4 motor vehicle in the possession of the other party; or

5 (27) tracking or monitoring personal property or a
6 motor vehicle in the possession of a party, without that party's
7 effective consent, including by:

8 (A) using a tracking application on a personal
9 electronic device in the possession of that party or using a
10 tracking device; or

11 (B) physically following that party or causing
12 another to physically follow that party.

13 SECTION 5. Section 85.022(b), Family Code, is amended to
14 read as follows:

15 (b) In a protective order, the court may prohibit the person
16 found to have committed family violence from:

17 (1) committing family violence;

18 (2) communicating:

19 (A) directly with a person protected by an order
20 or a member of the family or household of a person protected by an
21 order, in a threatening or harassing manner;

22 (B) a threat through any person to a person
23 protected by an order or a member of the family or household of a
24 person protected by an order; and

25 (C) if the court finds good cause, in any manner
26 with a person protected by an order or a member of the family or
27 household of a person protected by an order, except through the

1 party's attorney or a person appointed by the court;

2 (3) going to or near the residence or place of
3 employment or business of a person protected by an order or a member
4 of the family or household of a person protected by an order;

5 (4) going to or near the residence, child-care
6 facility, or school a child protected under the order normally
7 attends or in which the child normally resides;

8 (5) engaging in conduct directed specifically toward a
9 person who is a person protected by an order or a member of the
10 family or household of a person protected by an order, including
11 following the person, that is reasonably likely to harass, annoy,
12 alarm, abuse, torment, or embarrass the person;

13 (6) possessing a firearm, unless the person is a peace
14 officer, as defined by Section 1.07, Penal Code, actively engaged
15 in employment as a sworn, full-time paid employee of a state agency
16 or political subdivision; ~~and~~

17 (7) harming, threatening, or interfering with the
18 care, custody, or control of a pet, companion animal, or assistance
19 animal, as defined by Section 121.002, Human Resources Code, that
20 is possessed by or is in the actual or constructive care of a person
21 protected by an order or by a member of the family or household of a
22 person protected by an order; and

23 (8) tracking or monitoring personal property or a
24 motor vehicle in the possession of a person protected by an order or
25 of a member of the family or household of a person protected by an
26 order, without the person's effective consent, including by:

27 (A) using a tracking application on a personal

1 electronic device in the possession of the person or the family or
2 household member or using a tracking device; or

3 (B) physically following the person or the family
4 or household member or causing another to physically follow the
5 person or member.

6 SECTION 6. Section 25.07(a), Penal Code, is amended to read
7 as follows:

8 (a) A person commits an offense if, in violation of a
9 condition of bond set in a family violence, sexual assault or abuse,
10 indecent assault, stalking, or trafficking case and related to the
11 safety of a victim or the safety of the community, an order issued
12 under Subchapter A, Chapter 7B, Code of Criminal Procedure, an
13 order issued under Article 17.292, Code of Criminal Procedure, an
14 order issued under Section 6.504, Family Code, Chapter 83, Family
15 Code, if the temporary ex parte order has been served on the person,
16 Chapter 85, Family Code, or Subchapter F, Chapter 261, Family Code,
17 or an order issued by another jurisdiction as provided by Chapter
18 88, Family Code, the person knowingly or intentionally:

19 (1) commits family violence or an act in furtherance
20 of an offense under Section 20A.02, 22.011, 22.012, 22.021, or
21 42.072;

22 (2) communicates:

23 (A) directly with a protected individual or a
24 member of the family or household in a threatening or harassing
25 manner;

26 (B) a threat through any person to a protected
27 individual or a member of the family or household; or

1 (C) in any manner with the protected individual
2 or a member of the family or household except through the person's
3 attorney or a person appointed by the court, if the violation is of
4 an order described by this subsection and the order prohibits any
5 communication with a protected individual or a member of the family
6 or household;

7 (3) goes to or near any of the following places as
8 specifically described in the order or condition of bond:

9 (A) the residence or place of employment or
10 business of a protected individual or a member of the family or
11 household; or

12 (B) any child care facility, residence, or school
13 where a child protected by the order or condition of bond normally
14 resides or attends;

15 (4) possesses a firearm;

16 (5) harms, threatens, or interferes with the care,
17 custody, or control of a pet, companion animal, or assistance
18 animal that is possessed by a person protected by the order or
19 condition of bond; ~~or~~

20 (6) removes, attempts to remove, or otherwise tampers
21 with the normal functioning of a global positioning monitoring
22 system; or

23 (7) tracks or monitors personal property or a motor
24 vehicle in the possession of a protected individual or of a member
25 of the family or household of a protected individual, without the
26 individual's effective consent, including by:

27 (A) using a tracking application on a personal

1 electronic device in the possession of the protected individual or
2 the family or household member or using a tracking device; or

3 (B) physically following the protected
4 individual or family or household member or causing another to
5 physically follow the individual or member.

6 SECTION 7. Section 42.07, Penal Code, is amended by
7 amending Subsection (a) and adding Subsection (e) to read as
8 follows:

9 (a) A person commits an offense if, with intent to harass,
10 annoy, alarm, abuse, torment, or embarrass another, the person:

11 (1) initiates communication and in the course of the
12 communication makes a comment, request, suggestion, or proposal
13 that is obscene;

14 (2) threatens, in a manner reasonably likely to alarm
15 the person receiving the threat, to inflict bodily injury on the
16 person or to commit a felony against the person, a member of the
17 person's family or household, or the person's property;

18 (3) conveys, in a manner reasonably likely to alarm
19 the person receiving the report, a false report, which is known by
20 the conveyor to be false, that another person has suffered death or
21 serious bodily injury;

22 (4) causes the telephone of another to ring repeatedly
23 or makes repeated telephone communications anonymously or in a
24 manner reasonably likely to harass, annoy, alarm, abuse, torment,
25 embarrass, or offend another;

26 (5) makes a telephone call and intentionally fails to
27 hang up or disengage the connection;

1 (6) knowingly permits a telephone under the person's
2 control to be used by another to commit an offense under this
3 section;

4 (7) sends repeated electronic communications in a
5 manner reasonably likely to harass, annoy, alarm, abuse, torment,
6 embarrass, or offend another; ~~or~~

7 (8) publishes on an Internet website, including a
8 social media platform, repeated electronic communications in a
9 manner reasonably likely to cause emotional distress, abuse, or
10 torment to another person, unless the communications are made in
11 connection with a matter of public concern; or

12 (9) tracks or monitors the personal property or motor
13 vehicle of another person, without the other person's effective
14 consent, including by:

15 (A) using a tracking application on the person's
16 personal electronic device or using a tracking device; or

17 (B) physically following the other person or
18 causing any person to physically follow the other person.

19 (e) For purposes of Subsection (a)(9), it is presumed that a
20 person did not give effective consent to the actor's conduct if:

21 (1) an application for a protective or restraining
22 order against or with respect to the actor has been filed by or on
23 behalf of the person under Subchapter A, Chapter 7B, Code of
24 Criminal Procedure, Article 17.292, Code of Criminal Procedure,
25 Section 6.504, Family Code, or Subtitle B, Title 4, Family Code, or
26 an order has been issued against or with respect to the actor under
27 one of those provisions; or

1 (2) the person is married to the actor and a petition
2 for dissolution of marriage has been filed, or the person was
3 previously married to the actor and the marriage has been
4 dissolved.

5 SECTION 8. (a) Article 7B.005, Code of Criminal Procedure,
6 as amended by this Act, and Sections 6.501 and 85.022, Family Code,
7 as amended by this Act, apply only to a protective or restraining
8 order rendered on or after the effective date of this Act. A
9 protective or restraining order rendered before the effective date
10 of this Act is governed by the law in effect on the date the order
11 was rendered, and the former law is continued in effect for that
12 purpose.

13 (b) Article 17.292, Code of Criminal Procedure, as amended
14 by this Act, applies only to a magistrate's order for emergency
15 protection entered on or after the effective date of this Act. A
16 magistrate's order for emergency protection entered before the
17 effective date of this Act is governed by the law in effect on the
18 date the order was entered, and the former law is continued in
19 effect for that purpose.

20 (c) Article 17.49, Code of Criminal Procedure, as amended by
21 this Act, applies only to a defendant released on bond in connection
22 with an offense committed on or after the effective date of this
23 Act. A defendant released on bond in connection with an offense
24 committed before the effective date of this Act is governed by the
25 law in effect when the offense was committed, and the former law is
26 continued in effect for that purpose. For purposes of this
27 subsection, an offense was committed before the effective date of

1 this Act if any element of the offense occurred before that date.

2 (d) Sections 25.07 and 42.07, Penal Code, as amended by this
3 Act, apply only to an offense committed on or after the effective
4 date of this Act. An offense committed before the effective date
5 of this Act is governed by the law in effect on the date the offense
6 was committed, and the former law is continued in effect for that
7 purpose. For purposes of this subsection, an offense was committed
8 before the effective date of this Act if any element of the offense
9 occurred before that date.

10 SECTION 9. This Act takes effect September 1, 2023.