

By: Hull

H.B. No. 2715

A BILL TO BE ENTITLED

AN ACT

1
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 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 consent,
27 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 consent, including by:

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

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

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

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

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

25 (2) threatening the other party in person or in any
26 other manner, including by telephone or another electronic voice
27 transmission, video chat, in writing, or electronic messaging, to

1 take unlawful action against any person, intending by this action
2 to annoy or alarm the other party;

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

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

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

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

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

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

26 (9) intentionally or knowingly damaging or destroying
27 the tangible or intellectual property of the parties or either

1 party, including electronically stored or recorded information;

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

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

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

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

14 (ii) separate or community property;

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

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

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

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

25 (F) withdrawing or borrowing in any manner all or
26 any part of the cash surrender value of a life insurance policy on
27 the life of either party or a child of the parties;

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (25) excluding the other party from the use and
27 enjoyment of a specifically identified residence of the other

1 party; [~~or~~]

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

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

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

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

12 SECTION 5. Section 85.021, Family Code, is amended to read
13 as follows:

14 Sec. 85.021. REQUIREMENTS OF ORDER APPLYING TO ANY
15 PARTY. In a protective order, the court may:

16 (1) prohibit a party from:

17 (A) removing a child who is a member of the family
18 or household from:

19 (i) the possession of a person named in the
20 order; or

21 (ii) the jurisdiction of the court;

22 (B) transferring, encumbering, or otherwise
23 disposing of property, other than in the ordinary course of
24 business, that is mutually owned or leased by the parties; [~~or~~]

25 (C) removing a pet, companion animal, or
26 assistance animal, as defined by Section 121.002, Human Resources
27 Code, from the possession or actual or constructive care of a person

1 named in the order; or

2 (D) tracking or monitoring personal property or a
3 motor vehicle in the possession of a person named in the order,
4 without that person's consent, including by:

5 (i) using a tracking application on a
6 personal electronic device in the possession of the person or using
7 a tracking device; or

8 (ii) physically following the person or
9 causing another to physically follow the person;

10 (2) grant exclusive possession of a residence to a
11 party and, if appropriate, direct one or more parties to vacate the
12 residence if the residence:

13 (A) is jointly owned or leased by the party
14 receiving exclusive possession and a party being denied possession;

15 (B) is owned or leased by the party retaining
16 possession; or

17 (C) is owned or leased by the party being denied
18 possession and that party has an obligation to support the party or
19 a child of the party granted possession of the residence;

20 (3) provide for the possession of and access to a child
21 of a party if the person receiving possession of or access to the
22 child is a parent of the child;

23 (4) require the payment of support for a party or for a
24 child of a party if the person required to make the payment has an
25 obligation to support the other party or the child; or

26 (5) award to a party the use and possession of
27 specified property that is community property or jointly owned or

1 leased property.

2 SECTION 6. Section 85.022(b), Family Code, is amended to
3 read as follows:

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

6 (1) committing family violence;

7 (2) communicating:

8 (A) directly with a person protected by an order
9 or a member of the family or household of a person protected by an
10 order, in a threatening or harassing manner;

11 (B) a threat through any person to a person
12 protected by an order or a member of the family or household of a
13 person protected by an order; and

14 (C) if the court finds good cause, in any manner
15 with a person protected by an order or a member of the family or
16 household of a person protected by an order, except through the
17 party's attorney or a person appointed by the court;

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

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

24 (5) engaging in conduct directed specifically toward a
25 person who is a person protected by an order or a member of the
26 family or household of a person protected by an order, including
27 following the person, that is reasonably likely to harass, annoy,

1 alarm, abuse, torment, or embarrass the person;

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

6 (7) harming, threatening, or interfering with the
7 care, custody, or control of a pet, companion animal, or assistance
8 animal, as defined by Section 121.002, Human Resources Code, that
9 is possessed by or is in the actual or constructive care of a person
10 protected by an order or by a member of the family or household of a
11 person protected by an order; and

12 (8) tracking or monitoring personal property or a
13 motor vehicle in the possession of a person protected by an order or
14 of a member of the family or household of a person protected by an
15 order, without the person's consent, including by:

16 (A) using a tracking application on a personal
17 electronic device in the possession of the person or the family or
18 household member or using a tracking device; or

19 (B) physically following the person or the family
20 or household member or causing another to physically follow the
21 person or member.

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

24 (a) A person commits an offense if, in violation of a
25 condition of bond set in a family violence, sexual assault or abuse,
26 indecent assault, stalking, or trafficking case and related to the
27 safety of a victim or the safety of the community, an order issued

1 under Subchapter A, Chapter 7B, Code of Criminal Procedure, an
2 order issued under Article 17.292, Code of Criminal Procedure, an
3 order issued under Section 6.504, Family Code, Chapter 83, Family
4 Code, if the temporary ex parte order has been served on the person,
5 Chapter 85, Family Code, or Subchapter F, Chapter 261, Family Code,
6 or an order issued by another jurisdiction as provided by Chapter
7 88, Family Code, the person knowingly or intentionally:

8 (1) commits family violence or an act in furtherance
9 of an offense under Section 20A.02, 22.011, 22.012, 22.021, or
10 42.072;

11 (2) communicates:

12 (A) directly with a protected individual or a
13 member of the family or household in a threatening or harassing
14 manner;

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

17 (C) in any manner with the protected individual
18 or a member of the family or household except through the person's
19 attorney or a person appointed by the court, if the violation is of
20 an order described by this subsection and the order prohibits any
21 communication with a protected individual or a member of the family
22 or household;

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

25 (A) the residence or place of employment or
26 business of a protected individual or a member of the family or
27 household; or

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

4 (4) possesses a firearm;

5 (5) harms, threatens, or interferes with the care,
6 custody, or control of a pet, companion animal, or assistance
7 animal that is possessed by a person protected by the order or
8 condition of bond; ~~or~~]

9 (6) removes, attempts to remove, or otherwise tampers
10 with the normal functioning of a global positioning monitoring
11 system; or

12 (7) tracks or monitors personal property or a motor
13 vehicle in the possession of a protected individual or of a member
14 of the family or household of a protected individual, without the
15 individual's consent, including by:

16 (A) using a tracking application on a personal
17 electronic device in the possession of the protected individual or
18 the family or household member or using a tracking device; or

19 (B) physically following the protected
20 individual or family or household member or causing another to
21 physically follow the individual or member.

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

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

27 (1) initiates communication and in the course of the

1 communication makes a comment, request, suggestion, or proposal
2 that is obscene;

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

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

11 (4) causes the telephone of another to ring repeatedly
12 or makes repeated telephone communications anonymously or in a
13 manner reasonably likely to harass, annoy, alarm, abuse, torment,
14 embarrass, or offend another;

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

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

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

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

1 (9) tracks or monitors the personal property or motor
2 vehicle of another person, without the other person's consent,
3 including by:

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

6 (B) physically following the other person or
7 causing any person to physically follow the other person.

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

10 (1) the person has filed an application for a
11 protective or restraining order against or with respect to the
12 actor under Subchapter A, Chapter 7B, Code of Criminal Procedure,
13 Article 17.292, Code of Criminal Procedure, Section 6.504, Family
14 Code, or Subtitle B, Title 4, Family Code, or an order has been
15 issued against or with respect to the actor under one of those
16 provisions; or

17 (2) the person is married to the actor and a petition
18 for dissolution of marriage has been filed, or the person was
19 previously married to the actor and the marriage has been
20 dissolved.

21 SECTION 9. (a) Article 7B.005, Code of Criminal Procedure,
22 as amended by this Act, and Sections 6.501, 85.021, and 85.022,
23 Family Code, as amended by this Act, apply only to a protective or
24 restraining order rendered on or after the effective date of this
25 Act. A protective or restraining order rendered before the
26 effective date of this Act is governed by the law in effect on the
27 date the order was rendered, and the former law is continued in

1 effect for that purpose.

2 (b) Article 17.292, Code of Criminal Procedure, as amended
3 by this Act, applies only to a magistrate's order for emergency
4 protection entered on or after the effective date of this Act. A
5 magistrate's order for emergency protection entered before the
6 effective date of this Act is governed by the law in effect on the
7 date the order was entered, and the former law is continued in
8 effect for that purpose.

9 (c) Article 17.49, Code of Criminal Procedure, as amended by
10 this Act, applies only to a defendant released on bond in connection
11 with an offense committed on or after the effective date of this
12 Act. A defendant released on bond in connection with an offense
13 committed before the effective date of this Act is governed by the
14 law in effect when the offense was committed, and the former law is
15 continued in effect for that purpose. For purposes of this
16 subsection, an offense was committed before the effective date of
17 this Act if any element of the offense occurred before that date.

18 (d) Sections 25.07 and 42.07, Penal Code, as amended by this
19 Act, apply only to an offense committed on or after the effective
20 date of this Act. An offense committed before the effective date
21 of this Act is governed by the law in effect on the date the offense
22 was committed, and the former law is continued in effect for that
23 purpose. For purposes of this subsection, an offense was committed
24 before the effective date of this Act if any element of the offense
25 occurred before that date.

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