

By: Hinojosa, Ellis

S.B. No. 90

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a peace officer to make a warrantless arrest for the commission of family violence.

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

SECTION 1. Subsection (a), Article 14.03, Code of Criminal Procedure, as amended by Section 2, Chapter 460, Section 2, Chapter 836, Section 1, Chapter 989, and Section 2, Chapter 1164, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(a) Any peace officer may arrest, without warrant:

(1) persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony, violation of Title 9, Chapter 42, Penal Code, breach of the peace, or offense under Section 49.02, Penal Code, or threaten, or are about to commit some offense against the laws;

(2) persons who the peace officer has probable cause to believe have committed an assault resulting in bodily injury to another person and the peace officer has probable cause to believe that there is danger of further bodily injury to that person;

(3) persons who the peace officer has probable cause to believe have committed an offense defined by Section 25.07, Penal Code (violation of Protective Order), or by Section 38.112, Penal Code (violation of Protective Order issued on basis of sexual assault), if the offense is not committed in the presence of the

1 peace officer; ~~or~~]

2 (4) persons who the peace officer has probable cause
3 to believe have committed an offense involving family violence;
4 ~~[assault resulting in bodily injury to a member of the person's~~
5 ~~family or household; or]~~

6 (5) persons who the peace officer has probable cause
7 to believe have prevented or interfered with an individual's
8 ability to place a telephone call in an emergency, as defined by
9 Section 42.062(d), Penal Code, if the offense is not committed in
10 the presence of the peace officer; or ~~or~~]

11 (6) ~~(5)~~ a person who makes a statement to the peace
12 officer that would be admissible against the person under Article
13 38.21 and establishes probable cause to believe that the person has
14 committed a felony.

15 SECTION 2. Subsections (c) and (f), Article 14.03, Code of
16 Criminal Procedure, are amended to read as follows:

17 (c) If reasonably necessary to verify an allegation of a
18 violation of a protective order or of the commission of an offense
19 involving family violence ~~[assault against a member of the family~~
20 ~~or household]~~, a peace officer shall remain at the scene of the
21 investigation to verify the allegation and to prevent the further
22 commission of the violation or of family violence.

23 (f) In this article, "family violence" has ~~["family,"~~
24 ~~"household," and "member of a household" have]~~ the meaning
25 ~~[meanings]~~ assigned ~~[to those terms]~~ by Section 71.004 ~~[Chapter~~
26 ~~71]~~, Family Code.

27 SECTION 3. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 covered by the law in effect when the offense was committed, and the
4 former law is continued in effect for that purpose. For purposes of
5 this section, an offense was committed before the effective date of
6 this Act if any element of the offense was committed before that
7 date.

8 SECTION 4. This Act takes effect September 1, 2005.