

1-1 By: Hinojosa, Ellis S.B. No. 90
1-2 (In the Senate - Filed November 15, 2004; January 31, 2005,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 7, 2005, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 7, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the authority of a peace officer to make a warrantless
1-9 arrest for the commission of family violence.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (a), Article 14.03, Code of Criminal
1-12 Procedure, as amended by Section 2, Chapter 460, Section 2, Chapter
1-13 836, Section 1, Chapter 989, and Section 2, Chapter 1164, Acts of
1-14 the 78th Legislature, Regular Session, 2003, is reenacted and
1-15 amended to read as follows:

1-16 (a) Any peace officer may arrest, without warrant:

1-17 (1) persons found in suspicious places and under
1-18 circumstances which reasonably show that such persons have been
1-19 guilty of some felony, violation of Title 9, Chapter 42, Penal Code,
1-20 breach of the peace, or offense under Section 49.02, Penal Code, or
1-21 threaten, or are about to commit some offense against the laws;

1-22 (2) persons who the peace officer has probable cause
1-23 to believe have committed an assault resulting in bodily injury to
1-24 another person and the peace officer has probable cause to believe
1-25 that there is danger of further bodily injury to that person;

1-26 (3) persons who the peace officer has probable cause
1-27 to believe have committed an offense defined by Section 25.07,
1-28 Penal Code (violation of Protective Order), or by Section 38.112,
1-29 Penal Code (violation of Protective Order issued on basis of sexual
1-30 assault), if the offense is not committed in the presence of the
1-31 peace officer; ~~or~~

1-32 (4) persons who the peace officer has probable cause
1-33 to believe have committed an offense involving family violence;
1-34 ~~[assault resulting in bodily injury to a member of the person's~~
1-35 ~~family or household; or]~~

1-36 (5) persons who the peace officer has probable cause
1-37 to believe have prevented or interfered with an individual's
1-38 ability to place a telephone call in an emergency, as defined by
1-39 Section 42.062(d), Penal Code, if the offense is not committed in
1-40 the presence of the peace officer; or ~~[-]~~

1-41 (6) ~~[-]~~ a person who makes a statement to the peace
1-42 officer that would be admissible against the person under Article
1-43 38.21 and establishes probable cause to believe that the person has
1-44 committed a felony.

1-45 SECTION 2. Subsections (c) and (f), Article 14.03, Code of
1-46 Criminal Procedure, are amended to read as follows:

1-47 (c) If reasonably necessary to verify an allegation of a
1-48 violation of a protective order or of the commission of an offense
1-49 involving family violence ~~[assault against a member of the family~~
1-50 ~~or household]~~, a peace officer shall remain at the scene of the
1-51 investigation to verify the allegation and to prevent the further
1-52 commission of the violation or of family violence.

1-53 (f) In this article, "family violence" has ~~["family,"~~
1-54 ~~"household," and "member of a household" have]~~ the meaning
1-55 ~~[meanings]~~ assigned ~~[to those terms]~~ by Section 71.004 ~~[Chapter~~
1-56 ~~71]~~, Family Code.

1-57 SECTION 3. The change in law made by this Act applies only
1-58 to an offense committed on or after the effective date of this Act.
1-59 An offense committed before the effective date of this Act is
1-60 covered by the law in effect when the offense was committed, and the
1-61 former law is continued in effect for that purpose. For purposes of
1-62 this section, an offense was committed before the effective date of
1-63 this Act if any element of the offense was committed before that
1-64 date.

2-1 SECTION 4. This Act takes effect September 1, 2005.

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