

AN ACT

relating to the denial or revocation of bail for a person who violates certain court orders or conditions of bond related to victim or community safety and to the performance of community service by certain persons charged with certain alcohol-related offenses.

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

SECTION 1. The heading to Section 25.07, Penal Code, is amended to read as follows:

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE [~~PROTECTIVE ORDER OR MAGISTRATE'S ORDER~~].

SECTION 2. Sections 25.07(a) and (g), Penal Code, are amended to read as follows:

(a) A person commits an offense if, in violation of a condition of bond set in a family violence case and related to the safety of the victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code[~~, under Article 17.292, Code of Criminal Procedure~~], or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance

1 of an offense under Section 42.072;

2 (2) communicates:

3 (A) directly with a protected individual or a
4 member of the family or household in a threatening or harassing
5 manner;

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

8 (C) in any manner with the protected individual
9 or a member of the family or household except through the person's
10 attorney or a person appointed by the court, if the violation is of
11 an order described by this subsection and the order prohibits any
12 communication with a protected individual or a member of the family
13 or household;

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

16 (A) the residence or place of employment or
17 business of a protected individual or a member of the family or
18 household; or

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

22 (4) possesses a firearm.

23 (g) An offense under this section is a Class A misdemeanor
24 unless it is shown on the trial of the offense that the defendant
25 has previously been convicted under this section two or more times
26 or has violated the [~~protective~~] order or condition of bond by
27 committing an assault or the offense of stalking, in which event the

1 offense is a third degree felony.

2 SECTION 3. Chapter 17, Code of Criminal Procedure, is
3 amended by adding Article 17.152 to read as follows:

4 Art. 17.152. DENIAL OF BAIL FOR VIOLATION OF CERTAIN COURT
5 ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE. (a) In this
6 article, "family violence" has the meaning assigned by Section
7 71.004, Family Code.

8 (b) Except as otherwise provided by Subsection (d), a person
9 who commits an offense under Section 25.07, Penal Code, related to a
10 violation of a condition of bond set in a family violence case and
11 whose bail in the case under Section 25.07, Penal Code, or in the
12 family violence case is revoked or forfeited for a violation of a
13 condition of bond may be taken into custody and, pending trial or
14 other court proceedings, denied release on bail if following a
15 hearing a judge or magistrate determines by a preponderance of the
16 evidence that the person violated a condition of bond related to:

17 (1) the safety of the victim of the offense under
18 Section 25.07, Penal Code, or the family violence case, as
19 applicable; or

20 (2) the safety of the community.

21 (c) Except as otherwise provided by Subsection (d), a person
22 who commits an offense under Section 25.07, Penal Code, other than
23 an offense related to a violation of a condition of bond set in a
24 family violence case, may be taken into custody and, pending trial
25 or other court proceedings, denied release on bail if following a
26 hearing a judge or magistrate determines by a preponderance of the
27 evidence that the person committed the offense.

1 (d) A person who commits an offense under Section
2 25.07(a)(3), Penal Code, may be held without bail under Subsection
3 (b) or (c), as applicable, only if following a hearing the judge or
4 magistrate determines by a preponderance of the evidence that the
5 person went to or near the place described in the order or condition
6 of bond with the intent to commit or threaten to commit:

7 (1) family violence; or

8 (2) an act in furtherance of an offense under Section
9 42.072, Penal Code.

10 (e) In determining whether to deny release on bail under
11 this article, the judge or magistrate may consider:

12 (1) the order or condition of bond;

13 (2) the nature and circumstances of the alleged
14 offense;

15 (3) the relationship between the accused and the
16 victim, including the history of that relationship;

17 (4) any criminal history of the accused; and

18 (5) any other facts or circumstances relevant to a
19 determination of whether the accused poses an imminent threat of
20 future family violence.

21 (f) A person arrested for committing an offense under
22 Section 25.07, Penal Code, shall without unnecessary delay and
23 after reasonable notice is given to the attorney representing the
24 state, but not later than 48 hours after the person is arrested, be
25 taken before a magistrate in accordance with Article 15.17. At that
26 time, the magistrate shall conduct the hearing and make the
27 determination required by this article.

1 SECTION 4. Article 17.40(b), Code of Criminal Procedure, is
2 amended to read as follows:

3 (b) At a hearing limited to determining whether the
4 defendant violated a condition of bond imposed under Subsection
5 (a), the magistrate may revoke the defendant's bond only if the
6 magistrate finds by a preponderance of the evidence that the
7 violation occurred. If the magistrate finds that the violation
8 occurred, the magistrate shall revoke the defendant's bond and
9 order that the defendant be immediately returned to custody. Once
10 the defendant is placed in custody, the revocation of the
11 defendant's bond discharges the sureties on the bond, if any, from
12 any future liability on the bond. A discharge under this subsection
13 from any future liability on the bond does not discharge any surety
14 from liability for previous forfeitures on the bond.

15 SECTION 5. Article 45.049, Code of Criminal Procedure, is
16 amended by adding Subsections (g) and (h) to read as follows:

17 (g) This subsection applies only to a defendant who is
18 charged with a traffic offense or an offense under Section 106.05,
19 Alcoholic Beverage Code, and is a resident of this state. If under
20 Article 45.051(b)(10), Code of Criminal Procedure, the judge
21 requires the defendant to perform community service as a condition
22 of the deferral, the defendant is entitled to elect whether to
23 perform the required governmental entity or nonprofit organization
24 community service in:

25 (1) the county in which the court is located; or
26 (2) the county in which the defendant resides, but
27 only if the entity or organization agrees to:

1 (A) supervise the defendant in the performance of
2 the defendant's community service work; and

3 (B) report to the court on the defendant's
4 community service work.

5 (h) This subsection applies only to a defendant charged with
6 an offense under Section 106.05, Alcoholic Beverage Code, who,
7 under Subsection (g), elects to perform the required community
8 service in the county in which the defendant resides. The community
9 service must comply with Sections 106.071(d) and (e), Alcoholic
10 Beverage Code, except that if the educational programs or services
11 described by Section 106.071(e) are not available in the county of
12 the defendant's residence, the court may order community service
13 that it considers appropriate for rehabilitative purposes.

14 SECTION 6. Article 22.021, Code of Criminal Procedure, is
15 repealed.

16 SECTION 7. The changes made to Article 45.049, Code of
17 Criminal Procedure, by this Act take effect September 1, 2007.

18 SECTION 8. This Act applies only to an offense committed on
19 or after the effective date of this Act. An offense committed
20 before the effective date of this Act is governed by the law in
21 effect at the time the offense was committed, and the former law is
22 continued in effect for that purpose. For purposes of this section,
23 an offense was committed before the effective date of this Act if
24 any element of the offense was committed before that date.

25 SECTION 9. This Act takes effect January 1, 2008, but only
26 if the constitutional amendment proposed by the 80th Legislature,
27 Regular Session, 2007, authorizing the denial of bail to a person

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1 who violates certain court orders or conditions of release in a
2 felony or family violence case is approved by the voters. If that
3 constitutional amendment is not approved by the voters, this Act
4 has no effect.

President of the Senate

Speaker of the House

I certify that H.B. No. 3692 was passed by the House on May 7, 2007, by the following vote: Yeas 133, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3692 on May 25, 2007, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3692 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor