

SENATE AMENDMENTS

2nd Printing

By: Straus

H.B. No. 3692

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the denial of bail to a person who violates certain
3 court orders or conditions of bond related to victim or community
4 safety.

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

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

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

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

13 (a) A person commits an offense if, in violation of a
14 condition of bond set in a family violence case and related to the
15 safety of the victim or the safety of the community, an order issued
16 under Article 17.292, Code of Criminal Procedure, an order issued
17 under Section 6.504, Family Code, Chapter 83, Family Code, if the
18 temporary ex parte order has been served on the person, or Chapter
19 85, Family Code[~~, under Article 17.292, Code of Criminal~~
20 ~~Procedure~~], or an order issued by another jurisdiction as provided
21 by Chapter 88, Family Code, the person knowingly or intentionally:

22 (1) commits family violence or an act in furtherance
23 of an offense under Section 42.072;

24 (2) communicates:

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

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

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

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

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

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

20 (4) possesses a firearm.

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

27 SECTION 3. Chapter 17, Code of Criminal Procedure, is

1 amended by adding Article 17.152 to read as follows:

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

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

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

18 (2) the safety of the community.

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

26 (d) A person who commits an offense under Section
27 25.07(a)(3), Penal Code, may be held without bail under Subsection

1 (b) or (c), as applicable, only if following a hearing the judge or
2 magistrate determines by a preponderance of the evidence that the
3 person went to or near the place described in the order or condition
4 of bond with the intent to commit or threaten to commit:

5 (1) family violence; or

6 (2) an act in furtherance of an offense under Section
7 42.072, Penal Code.

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

10 (1) the order or condition of bond;

11 (2) the nature and circumstances of the alleged
12 offense;

13 (3) the relationship between the accused and the
14 victim, including the history of that relationship;

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

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

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

26 SECTION 4. This Act applies only to an offense committed on
27 or after the effective date of this Act. An offense committed

1 before the effective date of this Act is governed by the law in
2 effect at the time the offense was committed, and the former law is
3 continued in effect for that purpose. For purposes of this section,
4 an offense was committed before the effective date of this Act if
5 any element of the offense was committed before that date.

6 SECTION 5. This Act takes effect January 1, 2008, but only
7 if the constitutional amendment proposed by the 80th Legislature,
8 Regular Session, 2007, authorizing the denial of bail to a person
9 who violates certain court orders or conditions of release in a
10 felony or family violence case is approved by the voters. If that
11 constitutional amendment is not approved by the voters, this Act
12 has no effect.

ADOPTED

MAY 23 2007

Leta Spaw
Secretary of the Senate

By: Wentworth

H.B. No. 3692

Substitute the following for H.B. No. 3692:

By: J. J. King

C.S.H.B. No. 3692

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the denial or revocation of bail for a person who
3 violates certain court orders or conditions of bond related to
4 victim or community safety.

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

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

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

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

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

1 (1) commits family violence or an act in furtherance of
2 an offense under Section 42.072;

3 (2) communicates:

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

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

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

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

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

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

23 (4) possesses a firearm.

24 (g) An offense under this section is a Class A misdemeanor
25 unless it is shown on the trial of the offense that the defendant

1 has previously been convicted under this section two or more times
2 or has violated the [~~protective~~] order or condition of bond by
3 committing an assault or the offense of stalking, in which event
4 the offense is a third degree felony.

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

7 Art. 17.152. DENIAL OF BAIL FOR VIOLATION OF CERTAIN COURT
8 ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE. (a) In
9 this article, "family violence" has the meaning assigned by Section
10 71.004, Family Code.

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

20 (1) the safety of the victim of the offense under
21 Section 25.07, Penal Code, or the family violence case, as
22 applicable; or

23 (2) the safety of the community.

24 (c) Except as otherwise provided by Subsection (d), a person
25 who commits an offense under Section 25.07, Penal Code, other than

1 an offense related to a violation of a condition of bond set in a
2 family violence case, may be taken into custody and, pending trial
3 or other court proceedings, denied release on bail if following a
4 hearing a judge or magistrate determines by a preponderance of the
5 evidence that the person committed the offense.

6 (d) A person who commits an offense under Section
7 25.07(a)(3), Penal Code, may be held without bail under Subsection
8 (b) or (c), as applicable, only if following a hearing the judge or
9 magistrate determines by a preponderance of the evidence that the
10 person went to or near the place described in the order or
11 condition of bond with the intent to commit or threaten to commit:

12 (1) family violence; or

13 (2) an act in furtherance of an offense under Section
14 42.072, Penal Code.

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

17 (1) the order or condition of bond;

18 (2) the nature and circumstances of the alleged offense;

19 (3) the relationship between the accused and the victim,
20 including the history of that relationship;

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

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

25 (f) A person arrested for committing an offense under Section

1 25.07, Penal Code, shall without unnecessary delay and after
2 reasonable notice is given to the attorney representing the state,
3 but not later than 48 hours after the person is arrested, be taken
4 before a magistrate in accordance with Article 15.17. At that
5 time, the magistrate shall conduct the hearing and make the
6 determination required by this article.

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

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

21 SECTION 5. Article 22.021, Code of Criminal Procedure, is
22 repealed.

23 SECTION 6. This Act applies only to an offense committed on
24 or after the effective date of this Act. An offense committed
25 before the effective date of this Act is governed by the law in

1 effect at the time the offense was committed, and the former law is
2 continued in effect for that purpose. For purposes of this
3 section, an offense was committed before the effective date of this
4 Act if any element of the offense was committed before that date.


5 SECTION 7. This Act takes effect January 1, 2008, but only if
6 the constitutional amendment proposed by the 80th Legislature,
7 Regular Session, 2007, authorizing the denial of bail to a person
8 who violates certain court orders or conditions of release in a
9 felony or family violence case is approved by the voters. If that
10 constitutional amendment is not approved by the voters, this Act
11 has no effect.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 23 2007

BY: 


Secretary of the Senate

1 Amend H.B. No. 3692 by adding the following appropriately
2 numbered SECTIONS to the bill and renumbering subsequent
3 SECTIONS of the bill accordingly:

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

6 (g) This subsection applies only to a defendant who is
7 charged with a traffic offense or an offense under Section
8 106.05, Alcoholic Beverage Code, and is a resident of this
9 state. If under Article 45.051(b)(10), Code of Criminal
10 Procedure, the judge requires the defendant to perform community
11 service as a condition of the deferral, the defendant is
12 entitled to elect whether to perform the required governmental
13 entity or nonprofit organization community service in:

14 (1) the county in which the court is located; or

15 (2) the county in which the defendant resides, but
16 only if the entity or organization agrees to:

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

19 (B) report to the court on the defendant's
20 community service work.

21 (h) This subsection applies only to a defendant charged
22 with an offense under Section 106.05, Alcoholic Beverage Code,
23 who, under Subsection (g), elects to perform the required
24 community service in the county in which the defendant resides.
25 The community service must comply with Sections 106.071(d) and
26 (e), Alcoholic Beverage Code, except that if the educational
27 programs or services described by Section 106.071(e) are not
28 available in the county of the defendant's residence, the court
29 may order community service that it considers appropriate for

1 rehabilitative purposes.

2 SECTION _____. The changes made to Article 45.049, Code of
3 Criminal Procedure, by this Act take effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 19, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3692 by Straus (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.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend the Penal Code regarding court procedures and arrests related to violations of the conditions of bond set in a family violence case and denial of bail.

The bill would apply only to an offense committed on or after the effective date of the bill, which would be January 1, 2008, but only if the constitutional amendment that would authorize denial of bail in the circumstances described in the bill proposed by the Eightieth Legislature, Regular Session, 2007, passes and is approved by the voters. Otherwise, the provisions of the bill would have no effect.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ES, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3692 by Straus (Relating to the denial of bail to a person who violates certain court orders or conditions of bond related to victim or community safety.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Penal Code regarding court procedures and arrests related to violations of the conditions of bond set in a family violence case and denial of bail.

The bill would apply only to an offense committed on or after the effective date of the bill, which would be January 1, 2008, but only if the constitutional amendment that would authorize denial of bail in the circumstances described in the bill proposed by the Eightieth Legislature, Regular Session, 2007, passes and is approved by the voters. Otherwise, the provisions of the bill would have no effect.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ES, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 9, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3692 by Straus (Relating to the denial of bail to a person who violates certain court orders or conditions of bond related to victim or community safety.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure and the Penal Code regarding court procedures and arrests related to violations of the conditions of bond set in a family violence case and denial of bail.

The bill would apply only to an offense committed on or after the effective date of the bill, which would be January 1, 2008, but only if the constitutional amendment that would authorize denial of bail in the circumstances described in the bill proposed by the Eightieth Legislature, Regular Session, 2007, passes and is approved by the voters. Otherwise, the provisions of the bill would have no effect.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, ES, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 19, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3692 by Straus (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.),
Committee Report 2nd House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3692 by Straus (Relating to the denial of bail to a person who violates certain court orders or conditions of bond related to victim or community safety.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

April 6, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3692 by Straus (Relating to the denial of bail to a person who violates certain court orders or conditions of bond related to victim or community safety.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

