

BILL ANALYSIS

H.B. 1723
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, family violence and sexual assault victims are eligible to request protective orders that prevent the offender from contacting or interacting with the victim. However, the misdemeanor penalty for violating a protective order is not a sufficient deterrent for many offenders, who are more focused on intimidating and controlling the victim than concerned about receiving a citation or minor jail time. Victims of family violence and sexual assault deserve to live in peace and without fear of the offender. Because a protective order should be effective in providing security to victims, H.B. 1723 attempts to hold an offender more accountable for a second or subsequent violation of a certain court order or bond condition in a family violence case.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1723 amends the Penal Code to expand the conditions that result in a penalty enhancement to a third degree felony for an offense of violating a court order or condition of bond in a family violence case to include violating the order or condition by committing an offense of burglary, if the defendant entered the habitation of a protected individual.

H.B. 1723 creates the third degree felony offense of repeated violation of certain court orders or conditions of bond in a family violence case. The bill makes it an offense to engage two or more times during a period that is 12 months or less in duration in conduct that violates a certain court order or condition of bond against another person or persons who are protected individuals under the terms of the order. The bill requires, for a conviction by a jury in the prosecution of that offense, the jury's unanimous agreement that the defendant, during a period that is 12 months or less in duration, engaged two or more times in conduct that constituted the offense against the person or persons who are protected individuals under the terms of the court order, regardless of whether the jury agrees unanimously on which specific conduct engaged in by the defendant constituted the offense or on which exact date the defendant engaged in that conduct.

H.B. 1723 prohibits a defendant from being convicted of another offense in the same criminal action as an offense of repeatedly violating certain court orders or conditions of bond in a family violence case if a victim of the offense of repeatedly violating family violence case court orders or bond conditions is also a victim of the other offense and an element of that other offense is conduct that is alleged as an element of the offense of repeatedly violating family violence case court orders or bond conditions. The bill provides an exception to that prohibition if the other offense is charged in the alternative; occurred outside the period in which the alleged offense of repeatedly violating family violence case court orders or bond conditions was committed; or is considered by the trier of fact to be a lesser included offense of the alleged offense of repeatedly violating family violence case court orders or bond conditions. The bill prohibits a defendant from being charged with more than one count of an offense of repeatedly violating family

violence case court orders or bond conditions if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed in violation of a single court order.

EFFECTIVE DATE

September 1, 2011.