

By: Lucio III

H.B. No. 1723

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the penalties prescribed for a single violation or
3 repeated violations of certain court orders or conditions of bond
4 in a family violence case.

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

6 SECTION 1. Section 25.07, Penal Code, is amended by
7 amending Subsection (g) and adding Subsection (h) to read as
8 follows:

9 (g) Except as provided by Subsection (h), an [An] offense
10 under this section is a Class A misdemeanor.

11 (h) An offense under this section is a felony of the third
12 degree if [unless] it is shown on the trial of the offense that the
13 defendant:

14 (1) has previously been convicted under this section
15 two or more times; or

16 (2) has violated the order or condition of bond by
17 committing:

18 (A) an assault;

19 (B) [or] the offense of stalking; or

20 (C) an offense under Section 30.02, if the
21 defendant entered the habitation of a protected individual[~~7~~ in
22 which event the offense is a third degree felony].

23 SECTION 2. Chapter 25, Penal Code, is amended by adding
24 Section 25.072 to read as follows:

1 Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
2 CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE. (a) A person commits
3 an offense if, during a period that is 12 months or less in
4 duration, the person two or more times engages in conduct that
5 constitutes an offense under Section 25.07 against another person
6 or persons who are protected individuals under the terms of the
7 court's order.

8 (b) If the jury is the trier of fact, members of the jury are
9 not required to agree unanimously on the specific conduct in which
10 the defendant engaged that constituted an offense under Section
11 25.07 against the person or persons described by Subsection (a) or
12 the exact date when that conduct occurred. The jury must agree
13 unanimously that the defendant, during a period that is 12 months or
14 less in duration, two or more times engaged in conduct that
15 constituted an offense under Section 25.07 against the person or
16 persons described by Subsection (a).

17 (c) A defendant may not be convicted in the same criminal
18 action of another offense the victim of which is an alleged victim
19 of the offense under Subsection (a) and an element of which is any
20 conduct that is alleged as an element of the offense under
21 Subsection (a) unless the other offense:

22 (1) is charged in the alternative;

23 (2) occurred outside the period in which the offense
24 alleged under Subsection (a) was committed; or

25 (3) is considered by the trier of fact to be a lesser
26 included offense of the offense alleged under Subsection (a).

27 (d) A defendant may not be charged with more than one count

1 under Subsection (a) if all of the specific conduct that is alleged
2 to have been engaged in is alleged to have been committed in
3 violation of a single court order.

4 (e) An offense under this section is a felony of the third
5 degree.

6 SECTION 3. The change in law made by this Act applies only
7 to an offense committed on or after the effective date of this Act.
8 An offense committed before the effective date of this Act is
9 governed by the law in effect on the date the offense was committed,
10 and the former law is continued in effect for that purpose. For
11 purposes of this section, an offense was committed before the
12 effective date of this Act if any element of the offense occurred
13 before that date.

14 SECTION 4. This Act takes effect September 1, 2011.