

By: Nelson  
(Gallego, Hartnett, Rodriguez)

S.B. No. 82

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of stalking.

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

SECTION 1. Section 42.072, Penal Code, is amended to read as follows:

Sec. 42.072. STALKING. (a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct~~[, including following the other person,~~] that:

(1) the actor knows or reasonably believes the other person will regard as threatening:

(A) bodily injury or death for the other person;

(B) bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or

(C) that an offense will be committed against the other person's property;

(2) causes the other person, ~~or~~ a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or fear that an offense will be committed against the other person's property; and

(3) would cause a reasonable person to fear:

1 (A) bodily injury or death for himself or  
2 herself;

3 (B) bodily injury or death for a member of the  
4 person's family or household or for an individual with whom the  
5 person has a dating relationship; or

6 (C) that an offense will be committed against the  
7 person's property.

8 (b) An offense under this section is a felony of the third  
9 degree, except that the offense is a felony of the second degree if  
10 the actor has previously been convicted of an offense under this  
11 section or of an offense under any of the following laws that  
12 contains elements that are substantially similar to the elements of  
13 an offense under this section:

14 (1) the laws of another state;

15 (2) the laws of a federally recognized Indian tribe;

16 (3) the laws of a territory of the United States; or

17 (4) federal law.

18 (c) For purposes of this section, a trier of fact may find  
19 that different types of conduct described by Subsection (a), if  
20 engaged in on more than one occasion, constitute conduct that is  
21 engaged in pursuant to the same scheme or course of conduct.

22 (d) In this section, "dating relationship," "family,"  
23 "household," and "member of a household" have the meanings assigned  
24 by Chapter 71, Family Code.

25 SECTION 2. Chapter 13, Code of Criminal Procedure, is  
26 amended by adding Article 13.36 to read as follows:

27 Art. 13.36. STALKING. The offense of stalking may be

1 prosecuted in any county in which an element of the offense  
2 occurred.

3 SECTION 3. Chapter 38, Code of Criminal Procedure, is  
4 amended by adding Article 38.46 to read as follows:

5 Art. 38.46. EVIDENCE IN PROSECUTIONS FOR STALKING. (a) In  
6 a prosecution for stalking, each party may offer testimony as to all  
7 relevant facts and circumstances that would aid the trier of fact in  
8 determining whether the actor's conduct would cause a reasonable  
9 person to experience a fear described by Section 42.072(a)(3)(A),  
10 (B), or (C), Penal Code, including the facts and circumstances  
11 surrounding any existing or previous relationship between the actor  
12 and the alleged victim, a member of the alleged victim's family or  
13 household, or an individual with whom the alleged victim has a  
14 dating relationship.

15 (b) This article does not permit the presentation of  
16 character evidence that would otherwise be inadmissible under the  
17 Texas Rules of Evidence or other applicable law.

18 SECTION 4. The change in law made by this Act applies only  
19 to an offense committed on or after the effective date of this Act.  
20 An offense committed before the effective date of this Act is  
21 covered by the law in effect when the offense was committed, and the  
22 former law is continued in effect for that purpose. For purposes of  
23 this section, an offense was committed before the effective date of  
24 this Act if any element of the offense occurred before that date.

25 SECTION 5. This Act takes effect September 1, 2011.