

## **BILL ANALYSIS**

Senate Research Center

H.B. 1606  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Section 42.07 (Harassment) of the Penal Code defines "harassment" as a person committing certain acts with the intent to harass, annoy, alarm, abuse, torment, or embarrass another person. These acts of harassment include initiating obscene communication or threatening in an alarming manner by telephone, in writing, or by electronic communication. One of the criteria for the act of stalking states the person knowingly engages in certain behavior that the he or she knows or reasonably believes the victim will regard as threatening.

While stalking and harassment behavior are similar, there is little overlap under current Texas law, which subjects certain stalking behavior to significantly lower penalties than harassment penalties. H.B. 1606 seeks to remedy these issues and other problematic language in statutory provisions regarding the offenses of harassment and stalking by revising the conditions and conduct that constitute those offenses.

Specifically, H.B. 1606 removes both the intent to "annoy," "alarm," or "embarrass" as well as the condition that harassment is initiated by telephone, in writing, or electronic communication. H.B. 1606 also adds that repeated harassment constitutes stalking. Lastly, since proving what a person "believes" is an unreasonable standard, H.B. 1606 amends this stalking criteria so that a person reasonably should know the victim would feel threatened.

H.B. 1606 amends current law relating to the prosecution of the offenses of harassment and stalking.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 42.07(a), Penal Code, as follows:

- (a) Provides that a person commits an offense if, with intent to harass, abuse, or torment another, the person:
  - (1) initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;
  - (2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
  - (3) Makes no change to this subdivision;
  - (4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, abuse, or torment another;

(5)-(6) Makes no change to these subdivisions; or

(7) sends repeated electronic communications in a manner reasonably likely to harass, abuse, or torment another.

Deletes existing text providing that a person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, he initiates communication by telephone, in writing, or by electronic communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene; threatens, by telephone, in writing, or by electronic communication, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of his family or household, or his property; causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another; sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

SECTION 2. Amends Sections 42.072(a) and (d), Penal Code, as follows:

(a) Provides that 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 that:

(1) constitutes an offense under Section 42.07 (Harassment), or that the actor knows or reasonably should know, rather than reasonably believes, the other person will regard as threatening, such as bodily injury or death for the other person or 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 that an offense will be committed against the other person's property; or

(2) causes the other person, 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 in fear that an offense will be committed against the other person's property, or to feel harassed, abused, or tormented; and

(3) would cause a reasonable person to, rather than would cause a reasonable person to fear, fear bodily injury or death for himself or herself, fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship, fear that an offense will be committed against the person's property, or feel harassed, abused, or tormented.

(d) Defines "property" in this section. Makes nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2013.