

## **BILL ANALYSIS**

H.B. 1606  
By: Moody  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that Texas statutes regarding the offense of harassment have been the subject of a substantial amount of litigation based on the argument that the conduct constituting the offense involving initiating communications that annoy, alarm, abuse, torment, or embarrass another overlap with constitutionally protected free speech. The parties further note that appeals courts have been split regarding the law's constitutionality. Some critics argue that the restriction that the prohibited communication be by telephone, in writing, or by electronic communication is more problematic than the previously described issue because such a restriction excludes stalking behavior, which is a commonly exhibited type of harassing behavior. The critics note that while stalking and harassment behavior are similar, there is little overlap under current Texas law, which allows for certain stalking behavior to remain subject 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.

### **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. 1606 amends the Penal Code to change the conditions that constitute the offense of harassment by removing the specification that the offense be committed with the intent to annoy, alarm, or embarrass the victim. The bill, in the conduct that constitutes such offense involving initiating certain communication or threatening the victim in a certain manner, removes the specification that the communication or threat be made by telephone, in writing, or by electronic communication. The bill, in the conduct that constitutes such offense involving making repeated telephone communications or sending repeated electronic communications, removes the specification that the communications be made or sent in a manner reasonably likely to annoy, alarm, embarrass, or offend another.

H.B. 1606 expands the conduct that constitutes the offense of stalking to include, on more than one occasion and pursuant to the same scheme or course of conduct directed specifically at another person, knowingly engaging in conduct that constitutes a harassment offense; that causes the victim, a member of the victim's family or household, or an individual with whom the victim has a dating relationship to feel a certain way; and that would cause a reasonable person to feel a certain way. The bill expands the ways in which the victim, such an individual, or a reasonable person may feel as a result of the offensive conduct to include feeling harassed, abused, or tormented. The bill, in the conduct constituting stalking that involves knowingly engaging in conduct that the actor knows or reasonably believes the victim will regard as threatening, specifies that the conduct is instead such that the actor knows or reasonably should know the victim will regard as threatening.

**EFFECTIVE DATE**

September 1, 2013.