

## **BILL ANALYSIS**

H.B. 2172  
By: Lucio III  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties report that many individuals convicted of offenses involving family violence repeatedly violate protective orders while they are awaiting adjudication for prior violations of the same protective order. After such a violation, an offender can be charged with a Class A misdemeanor until the offender has committed and is convicted for a third violation, in which case the offender can be charged with a third degree felony. Concern has been raised over estimates of final adjudication of a protective order violation taking up to a year or more, while the offender continues to violate the order. The parties assert that the current system allows these offenders to continue exercising power and control over victims by disobeying court orders repeatedly within a relatively short amount of time.

H.B. 2172 seeks to address these concerns by creating the offense of repeated violation of a protective order or bond condition in a family violence case for a person who commits two or more such violations within a 12-month period.

### **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. 2172 amends the Penal Code to create the third degree felony offense of repeated violation of certain court orders or conditions of bond in a family violence case for a person who, during a period that is 12 months or less in duration, two or more times engages in conduct that constitutes a violation of certain court orders or bond conditions in a family violence case. The bill requires a jury, if the jury is the trier of fact in the prosecution of such offense, to agree unanimously 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 of violating certain court orders or bond conditions in a family violence case, 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. The bill prohibits a defendant from being convicted in the same criminal action of another offense an element of which is any conduct that is alleged as an element of the repeated violation of court orders or bond conditions offense unless the other offense is charged in the alternative, occurred outside the period in which the repeated violation of court orders or bond conditions offense was committed, or is considered by the trier of fact to be a lesser included offense of the repeated violation of court orders or bond conditions offense. The bill prohibits a defendant from being charged with more than one count of repeated violation of certain court orders or bond conditions in a family violence case 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 or single setting of bond.

H.B. 2172 expands the circumstances under which the offense of violation of certain court orders or bond conditions in a family violence case is enhanced to a third degree felony to include

having previously been convicted of an offense of repeated violation of certain court orders or bond conditions in a family violence case or having previously been convicted of each of those offenses.

H.B. 2172 amends the Code of Criminal Procedure to establish venue for an offense of repeated violation of certain court orders or conditions of bond in a family violence case in the county in which the order was issued or in which the offense occurred.

H.B. 2172 amends the Government Code to include cases prosecuted under the offense of repeated violation of certain court orders or conditions of bond in a family violence case among the cases to which the County Court at Law No. 13 of Bexar County and the County Criminal Court No. 5 of Tarrant County must give preference. The bill includes such an offense among the offenses of which a previous conviction or for which a placement on deferred adjudication renders a defendant ineligible to petition a court for an order of nondisclosure with regard to criminal history record information. The bill excludes a deferred adjudication for such an offense from the deferred adjudication orders that are exempt from being considered a conviction for purposes of provisions relating to a concealed handgun license.

H.B. 2172 amends the Occupations Code to include the offense of repeated violation of certain court orders or conditions of bond in a family violence case among the offenses a conviction for which the Texas Board of Nursing is required to suspend a nurse's license or refuse to issue a license to an applicant.

**EFFECTIVE DATE**

September 1, 2013.