

By: Lucio III, Villalba

H.B. No. 2172

A BILL TO BE ENTITLED

AN ACT

relating to the penalties prescribed for repeated violations of certain court orders or conditions of bond in a family violence case.

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

SECTION 1. Chapter 25, Penal Code, is amended by adding Section 25.072 to read as follows:

Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN FAMILY VIOLENCE CASE. (a) A person commits an offense if, during a period that is 12 months or less in duration, the person two or more times engages in conduct that constitutes an offense under Section 25.07.

(b) If the jury is the trier of fact, members of the jury are not required to agree unanimously on the specific conduct in which the defendant engaged that constituted an offense under Section 25.07 or on the exact date when that conduct occurred. The jury must agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 25.07.

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

(1) is charged in the alternative;

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

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

5 (d) A defendant may not be charged with more than one count
6 under Subsection (a) if all of the specific conduct that is alleged
7 to have been engaged in is alleged to have been committed in
8 violation of a single court order or single setting of bond.

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

11 SECTION 2. Section 25.07(g), Penal Code, is amended to read
12 as follows:

13 (g) An offense under this section is a Class A misdemeanor,
14 except the offense is a felony of the third degree if [unless] it is
15 shown on the trial of the offense that the defendant:

16 (1) has previously been convicted two or more times of
17 an offense under this section or two or more times of an offense
18 under Section 25.072, or has previously been convicted of an
19 offense under this section and an offense under Section 25.072;
20 [two or more times] or

21 (2) has violated the order or condition of bond by
22 committing an assault or the offense of stalking[~~, in which event~~
23 ~~the offense is a third degree felony]~~.

24 SECTION 3. Article 5.07, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 5.07. VENUE FOR PROTECTIVE ORDER OFFENSES. The venue
27 for an offense under Section 25.07 or 25.072, Penal Code, is in the

1 county in which the order was issued or, without regard to the
2 identity or location of the court that issued the protective order,
3 in the county in which the offense was committed.

4 SECTION 4. Section 25.0172(c-1), Government Code, is
5 amended to read as follows:

6 (c-1) The County Court at Law No. 13 of Bexar County, Texas,
7 shall give preference to cases prosecuted under:

8 (1) Section 22.01, Penal Code, in which the victim is a
9 person whose relationship to or association with the defendant is
10 described by Chapter 71, Family Code; and

11 (2) Section 25.07 or 25.072, Penal Code.

12 SECTION 5. Section 25.2223(1), Government Code, is amended
13 to read as follows:

14 (1) The County Criminal Court No. 5 of Tarrant County shall
15 give preference to cases brought under Title 5, Penal Code,
16 involving family violence as defined by Section 71.004, Family
17 Code, and cases brought under Sections 25.07, 25.072, and 42.072,
18 Penal Code.

19 SECTION 6. Section 411.081(e), Government Code, is amended
20 to read as follows:

21 (e) A person is entitled to petition the court under
22 Subsection (d) only if during the period of the deferred
23 adjudication community supervision for which the order of
24 nondisclosure is requested and during the applicable period
25 described by Subsection (d)(1), (2), or (3), as appropriate, the
26 person is not convicted of or placed on deferred adjudication
27 community supervision under Section 5, Article 42.12, Code of

1 Criminal Procedure, for any offense other than an offense under the
2 Transportation Code punishable by fine only. A person is not
3 entitled to petition the court under Subsection (d) if the person
4 was placed on the deferred adjudication community supervision for
5 or has been previously convicted or placed on any other deferred
6 adjudication for:

7 (1) an offense requiring registration as a sex
8 offender under Chapter 62, Code of Criminal Procedure;

9 (2) an offense under Section 20.04, Penal Code,
10 regardless of whether the offense is a reportable conviction or
11 adjudication for purposes of Chapter 62, Code of Criminal
12 Procedure;

13 (3) an offense under Section 19.02, 19.03, 22.04,
14 22.041, 25.07, 25.072, or 42.072, Penal Code; or

15 (4) any other offense involving family violence, as
16 defined by Section 71.004, Family Code.

17 SECTION 7. Section 411.1711, Government Code, is amended to
18 read as follows:

19 Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A
20 person is not convicted, as that term is defined by Section 411.171,
21 if an order of deferred adjudication was entered against the person
22 on a date not less than 10 years preceding the date of the person's
23 application for a license under this subchapter unless the order of
24 deferred adjudication was entered against the person for:

25 (1) a felony offense under:

26 (A) Title 5, Penal Code;

27 (B) Chapter 29, Penal Code;

- 1 (C) Section 25.07 or 25.072, Penal Code; or
2 (D) Section 30.02, Penal Code, if the offense is
3 punishable under Subsection (c)(2) or (d) of that section; or
4 (2) an offense under the laws of another state if the
5 offense contains elements that are substantially similar to the
6 elements of an offense listed in Subdivision (1).

7 SECTION 8. Section 301.4535(a), Occupations Code, is
8 amended to read as follows:

9 (a) The board shall suspend a nurse's license or refuse to
10 issue a license to an applicant on proof that the nurse or applicant
11 has been initially convicted of:

12 (1) murder under Section 19.02, Penal Code, capital
13 murder under Section 19.03, Penal Code, or manslaughter under
14 Section 19.04, Penal Code;

15 (2) kidnapping or unlawful restraint under Chapter 20,
16 Penal Code, and the offense was punished as a felony or state jail
17 felony;

18 (3) sexual assault under Section 22.011, Penal Code;

19 (4) aggravated sexual assault under Section 22.021,
20 Penal Code;

21 (5) continuous sexual abuse of young child or children
22 under Section 21.02, Penal Code, or indecency with a child under
23 Section 21.11, Penal Code;

24 (6) aggravated assault under Section 22.02, Penal
25 Code;

26 (7) intentionally, knowingly, or recklessly injuring
27 a child, elderly individual, or disabled individual under Section

1 22.04, Penal Code;

2 (8) intentionally, knowingly, or recklessly
3 abandoning or endangering a child under Section 22.041, Penal Code;

4 (9) aiding suicide under Section 22.08, Penal Code,
5 and the offense was punished as a state jail felony;

6 (10) an offense involving a violation of certain court
7 orders or conditions of bond under Section 25.07, 25.071, or
8 25.072, Penal Code, punished as a felony;

9 ~~(11) [an offense under Section 25.071, Penal Code,~~
10 ~~punished as a felony;~~

11 ~~[(12)]~~ an agreement to abduct a child from custody
12 under Section 25.031, Penal Code;

13 (12) ~~[(13)]~~ the sale or purchase of a child under
14 Section 25.08, Penal Code;

15 (13) ~~[(14)]~~ robbery under Section 29.02, Penal Code;

16 (14) ~~[(15)]~~ aggravated robbery under Section 29.03,
17 Penal Code;

18 (15) ~~[(16)]~~ an offense for which a defendant is
19 required to register as a sex offender under Chapter 62, Code of
20 Criminal Procedure; or

21 (16) ~~[(17)]~~ an offense under the law of another state,
22 federal law, or the Uniform Code of Military Justice that contains
23 elements that are substantially similar to the elements of an
24 offense listed in this subsection.

25 SECTION 9. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 10. This Act takes effect September 1, 2013.