

By: Lucio III

H.B. No. 3133

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the penalties prescribed for a single violation or
3 repeated violations of certain court orders or conditions of bond
4 in a family violence case.

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

6 SECTION 1. Section 25.07, Penal Code, is amended by
7 amending Subsection (g) and adding Subsection (h) to read as
8 follows:

9 (g) Except as provided by Subsection (h), an [An] offense
10 under this section is a Class A misdemeanor.

11 (h) An offense under this section is a felony of the third
12 degree if [unless] it is shown on the trial of the offense that the
13 defendant:

14 (1) has previously been convicted two or more times of
15 an offense under this section or two or more times of an offense
16 under Section 25.072, or has previously been convicted of an
17 offense under this section and an offense under Section 25.072; or

18 (2) has violated the order or condition of bond by
19 committing:

20 (A) an assault;

21 (B) [or] the offense of stalking; or

22 (C) an offense under Section 30.02, if the
23 defendant entered the habitation of a protected individual[~~7 in~~
24 which event the offense is a third degree felony].

1 SECTION 2. Chapter 25, Penal Code, is amended by adding
2 Section 25.072 to read as follows:

3 Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
4 CONDITIONS OF BOND IN FAMILY VIOLENCE CASE. (a) A person commits
5 an offense if, during a period that is 12 months or less in
6 duration, the person two or more times engages in conduct that
7 constitutes an offense under Section 25.07 with respect to a single
8 court order or single setting of bond.

9 (b) If the jury is the trier of fact, members of the jury are
10 not required to agree unanimously on the specific conduct in which
11 the defendant engaged that constituted an offense under Section
12 25.07 with respect to a single court order or single setting of bond
13 or on the exact date when that conduct occurred. The jury must
14 agree unanimously that the defendant, during a period that is 12
15 months or less in duration, two or more times engaged in conduct
16 that constituted an offense under Section 25.07 with respect to a
17 single court order or single setting of bond.

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

22 (1) is charged in the alternative;

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

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

27 (d) A defendant may not be charged with more than one count

1 under Subsection (a) if all of the specific conduct that is alleged
2 to have been engaged in is alleged to have been committed in
3 violation of a single court order or single setting of bond.

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

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

8 Art. 5.07. VENUE FOR PROTECTIVE ORDER OFFENSES. The venue
9 for an offense under Section 25.07 or 25.072, Penal Code, is in the
10 county in which the order was issued or, without regard to the
11 identity or location of the court that issued the protective order,
12 in the county in which the offense was committed.

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

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

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

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

21 SECTION 5. Section 25.0732(z), Government Code, is amended
22 to read as follows:

23 (z) The County Criminal Courts No. 1, No. 2, No. 3, and No. 4
24 have the criminal jurisdiction provided by this section and other
25 law for statutory county courts in El Paso County and appellate
26 jurisdiction in appeals of criminal cases from justice courts and
27 municipal courts in the county as provided by Article 45.042, Code

1 of Criminal Procedure. The County Criminal Court No. 4 shall give
2 preference to cases prosecuted under:

3 (1) Section 22.01, Penal Code, in which the victim is a
4 person whose relationship to or association with the defendant is
5 described under Chapter 71, Family Code; and

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

7 SECTION 6. Section 25.2223(1), Government Code, is amended
8 to read as follows:

9 (1) The County Criminal Court No. 5 of Tarrant County shall
10 give preference to cases brought under Title 5, Penal Code,
11 involving family violence as defined by Section 71.004, Family
12 Code, and cases brought under Sections 25.07, 25.072, and 42.072,
13 Penal Code.

14 SECTION 7. Section 411.081(e), Government Code, is amended
15 to read as follows:

16 (e) A person is entitled to petition the court under
17 Subsection (d) only if during the period of the deferred
18 adjudication community supervision for which the order of
19 nondisclosure is requested and during the applicable period
20 described by Subsection (d)(1), (2), or (3), as appropriate, the
21 person is not convicted of or placed on deferred adjudication
22 community supervision under Section 5, Article 42.12, Code of
23 Criminal Procedure, for any offense other than an offense under the
24 Transportation Code punishable by fine only. A person is not
25 entitled to petition the court under Subsection (d) if the person
26 was placed on the deferred adjudication community supervision for
27 or has been previously convicted or placed on any other deferred

1 adjudication for:

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

4 (2) an offense under Section 20.04, Penal Code,
5 regardless of whether the offense is a reportable conviction or
6 adjudication for purposes of Chapter 62, Code of Criminal
7 Procedure;

8 (3) an offense under Section 19.02, 19.03, 22.04,
9 22.041, 25.07, 25.072, or 42.072, Penal Code; or

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

12 SECTION 8. Section 411.1711, Government Code, is amended to
13 read as follows:

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

20 (1) a felony offense under:

21 (A) Title 5, Penal Code;

22 (B) Chapter 29, Penal Code;

23 (C) Section 25.07 or 25.072, Penal Code; or

24 (D) Section 30.02, Penal Code, if the offense is
25 punishable under Subsection (c)(2) or (d) of that section; or

26 (2) an offense under the laws of another state if the
27 offense contains elements that are substantially similar to the

1 elements of an offense listed in Subdivision (1).

2 SECTION 9. Section 301.4535(a), Occupations Code, is
3 amended to read as follows:

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

7 (1) murder under Section 19.02, Penal Code, capital
8 murder under Section 19.03, Penal Code, or manslaughter under
9 Section 19.04, Penal Code;

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

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

14 (4) aggravated sexual assault under Section 22.021,
15 Penal Code;

16 (5) continuous sexual abuse of young child or children
17 under Section 21.02, Penal Code, or indecency with a child under
18 Section 21.11, Penal Code;

19 (6) aggravated assault under Section 22.02, Penal
20 Code;

21 (7) intentionally, knowingly, or recklessly injuring
22 a child, elderly individual, or disabled individual under Section
23 22.04, Penal Code;

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

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

1 (10) an offense involving a violation of certain court
2 orders or conditions of bond under Section 25.07, 25.071, or
3 25.072, Penal Code, punished as a felony;

4 (11) [~~an offense under Section 25.071, Penal Code,~~
5 ~~punished as a felony,~~

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

8 (12) [~~(13)~~] the sale or purchase of a child under
9 Section 25.08, Penal Code;

10 (13) [~~(14)~~] robbery under Section 29.02, Penal Code;

11 (14) [~~(15)~~] aggravated robbery under Section 29.03,
12 Penal Code;

13 (15) [~~(16)~~] an offense for which a defendant is
14 required to register as a sex offender under Chapter 62, Code of
15 Criminal Procedure; or

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

20 SECTION 10. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 governed by the law in effect on the date the offense was committed,
24 and the former law is continued in effect for that purpose. For
25 purposes of this section, an offense was committed before the
26 effective date of this Act if any element of the offense occurred
27 before that date.

1 SECTION 11. This Act takes effect September 1, 2013.