

By: Carona

S.B. No. 893

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain conditions of, penalties for violating, or
3 collection of information about protective orders issued in certain
4 family violence, sexual assault or abuse, stalking, or trafficking
5 cases.

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

7 SECTION 1. The heading to Chapter 7A, Code of Criminal
8 Procedure, is amended to read as follows:

9 CHAPTER 7A. PROTECTIVE ORDER FOR [~~CERTAIN~~] VICTIMS OF [~~TRAFFICKING~~
10 ~~OR~~] SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING

11 SECTION 2. Article 7A.05(a), Code of Criminal Procedure, is
12 amended to read as follows:

13 (a) In a protective order issued under this chapter, the
14 court may:

15 (1) order the alleged offender to take action as
16 specified by the court that the court determines is necessary or
17 appropriate to prevent or reduce the likelihood of future harm to
18 the applicant or a member of the applicant's family or household; or

19 (2) prohibit the alleged offender from:

20 (A) communicating:

21 (i) directly or indirectly with the
22 applicant or any member of the applicant's family or household in a
23 threatening or harassing manner; or

24 (ii) in any manner with the applicant or any

1 member of the applicant's family or household except through the
2 applicant's attorney or a person appointed by the court, if the
3 court finds good cause for the prohibition;

4 (B) going to or near the residence, place of
5 employment or business, or child-care facility or school of the
6 applicant or any member of the applicant's family or household;

7 (C) engaging in conduct directed specifically
8 toward the applicant or any member of the applicant's family or
9 household, including following the person, that is reasonably
10 likely to harass, annoy, alarm, abuse, torment, or embarrass the
11 person; and

12 (D) possessing a firearm, unless the alleged
13 offender is a peace officer, as defined by Section 1.07, Penal Code,
14 actively engaged in employment as a sworn, full-time paid employee
15 of a state agency or political subdivision.

16 SECTION 3. Sections 411.042(b) and (g), Government Code,
17 are amended to read as follows:

18 (b) The bureau of identification and records shall:

19 (1) procure and file for record photographs, pictures,
20 descriptions, fingerprints, measurements, and other pertinent
21 information of all persons arrested for or charged with a criminal
22 offense or convicted of a criminal offense, regardless of whether
23 the conviction is probated;

24 (2) collect information concerning the number and
25 nature of offenses reported or known to have been committed in the
26 state and the legal steps taken in connection with the offenses, and
27 other information useful in the study of crime and the

1 administration of justice, including information that enables the
2 bureau to create a statistical breakdown of:

3 (A) offenses in which family violence was
4 involved;

5 (B) offenses under Sections 22.011 and 22.021,
6 Penal Code; and

7 (C) offenses under Sections 20A.02 and 43.05,
8 Penal Code;

9 (3) make ballistic tests of bullets and firearms and
10 chemical analyses of bloodstains, cloth, materials, and other
11 substances for law enforcement officers of the state;

12 (4) cooperate with identification and crime records
13 bureaus in other states and the United States Department of
14 Justice;

15 (5) maintain a list of all previous background checks
16 for applicants for any position regulated under Chapter 1702,
17 Occupations Code, who have undergone a criminal history background
18 check under Section 411.119, if the check indicates a Class B
19 misdemeanor or equivalent offense or a greater offense;

20 (6) collect information concerning the number and
21 nature of protective orders and all other pertinent information
22 about all persons on active protective orders, including pertinent
23 information about persons subject to conditions of bond imposed for
24 the protection of the victim in any family violence, sexual
25 assault, or stalking case. Information in the law enforcement
26 information system relating to an active protective order shall
27 include:

1 (A) the name, sex, race, date of birth, personal
2 descriptors, address, and county of residence of the person to whom
3 the order is directed;

4 (B) any known identifying number of the person to
5 whom the order is directed, including the person's social security
6 number or driver's license number;

7 (C) the name and county of residence of the
8 person protected by the order;

9 (D) the residence address and place of employment
10 or business of the person protected by the order, unless that
11 information is excluded from the order under Section 85.007, Family
12 Code;

13 (E) the child-care facility or school where a
14 child protected by the order normally resides or which the child
15 normally attends, unless that information is excluded from the
16 order under Section 85.007, Family Code;

17 (F) the relationship or former relationship
18 between the person who is protected by the order and the person to
19 whom the order is directed; ~~and~~

20 (G) the conditions of bond imposed on the person
21 to whom the order is directed for the protection of a victim in any
22 family violence, sexual assault, or stalking case; and

23 (H) the date the order expires;

24 (7) grant access to criminal history record
25 information in the manner authorized under Subchapter F;

26 (8) collect and disseminate information regarding
27 offenders with mental impairments in compliance with Chapter 614,

1 Health and Safety Code; and

2 (9) record data and maintain a state database for a
3 computerized criminal history record system and computerized
4 juvenile justice information system that serves:

5 (A) as the record creation point for criminal
6 history record information and juvenile justice information
7 maintained by the state; and

8 (B) as the control terminal for the entry of
9 records, in accordance with federal law and regulations, federal
10 executive orders, and federal policy, into the federal database
11 maintained by the Federal Bureau of Investigation.

12 (g) The department may adopt reasonable rules under this
13 section relating to:

14 (1) law enforcement information systems maintained by
15 the department;

16 (2) the collection, maintenance, and correction of
17 records;

18 (3) reports of criminal history information submitted
19 to the department;

20 (4) active protective orders issued under Title 4,
21 Family Code, or Chapter 7A or Article 17.292, Code of Criminal
22 Procedure, and reporting procedures that ensure that information
23 relating to the issuance, modification, or removal of any
24 conditions imposed through ~~of~~ an active protective order and to
25 the dismissal of an active protective order is reported to the local
26 law enforcement agency at the time of the order's issuance or
27 dismissal and entered by the local law enforcement agency in the

1 state's law enforcement information system;

2 (5) the collection of information described by
3 Subsection (h); and

4 (6) a system for providing criminal history record
5 information through the criminal history clearinghouse under
6 Section 411.0845.

7 SECTION 4. The heading to Section 25.07, Penal Code, is
8 amended to read as follows:

9 Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
10 OF BOND IN A FAMILY VIOLENCE, SEXUAL ASSAULT, OR STALKING CASE.

11 SECTION 5. Section 25.07(a), Penal Code, is amended to read
12 as follows:

13 (a) A person commits an offense if, in violation of a
14 condition of bond [~~set in a family violence case~~] and related to the
15 safety of a a [~~the~~] victim or the safety of the community, an order
16 issued under Article 17.292, Code of Criminal Procedure, in a
17 family violence, sexual assault, or stalking case, an order issued
18 under Section 6.504, Family Code, Chapter 83, Family Code, if the
19 temporary ex parte order has been served on the person, or Chapter
20 85, Family Code, in a family violence case, or an order issued by
21 another jurisdiction as provided by Chapter 88, Family Code, in a
22 family violence case, the person knowingly or intentionally:

23 (1) commits family violence or an act in furtherance
24 of an offense under Section 22.011, 22.021, or 42.072;

25 (2) communicates:

26 (A) directly with a protected individual or a
27 member of the family or household in a threatening or harassing

1 manner;

2 (B) in any manner with the protected individual
3 or a member of the family or household except through the protected
4 individual's attorney or a person appointed by the court;

5 (C) a threat through any person to a protected
6 individual or a member of the family or household; or

7 (D) [~~(C)~~] in any manner with the protected
8 individual or a member of the family or household except through the
9 person's attorney or a person appointed by the court, if the
10 violation is of an order described by this subsection and the order
11 prohibits any communication with a protected individual or a member
12 of the family or household;

13 (3) goes to or near any of the following places as
14 specifically described in the order or condition of bond:

15 (A) the residence or place of employment or
16 business of a protected individual or a member of the family or
17 household; or

18 (B) any child care facility, residence, or school
19 where a child protected by the order or condition of bond normally
20 resides or attends;

21 (4) possesses a firearm; or

22 (5) harms, threatens, or interferes with the care,
23 custody, or control of a pet, companion animal, or assistance
24 animal that is possessed by a person protected by the order.

25 SECTION 6. Section 25.07(b), Penal Code, is amended by
26 adding Subdivisions (4) and (5) to read as follows:

27 (4) "Sexual assault" means any act as described by

1 Section 22.011 or 22.021.

2 (5) "Stalking" means any conduct that constitutes an
3 offense under Section 42.072.

4 SECTION 7. The heading to Section 38.112, Penal Code, is
5 amended to read as follows:

6 Sec. 38.112. VIOLATION OF PROTECTIVE ORDER ISSUED ON BASIS
7 OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

8 SECTION 8. Section 38.112(a), Penal Code, is amended to
9 read as follows:

10 (a) A person commits an offense if, in violation of an order
11 issued under Chapter 7A, Code of Criminal Procedure, the person
12 knowingly:

13 (1) communicates:

14 (A) directly or indirectly with the applicant or
15 any member of the applicant's family or household in a threatening
16 or harassing manner; or

17 (B) in any manner with the applicant or any
18 member of the applicant's family or household except through the
19 applicant's attorney or a person appointed by the court;

20 (2) goes to or near the residence, place of employment
21 or business, or child-care facility or school of the applicant or
22 any member of the applicant's family or household; or

23 (3) possesses a firearm.

24 SECTION 9. The changes in law made by this Act in amending
25 Sections 25.07 and 38.112, Penal Code, apply only to an offense
26 committed on or after the effective date of this Act. An offense
27 committed before the effective date of this Act is governed by the

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

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