

By: Hernandez

H.B. No. 498

A BILL TO BE ENTITLED

AN ACT

relating to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, stalking, or trafficking case.

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

SECTION 1. The heading to Section 25.07, Penal Code, is amended to read as follows:

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

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

(a) A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, ~~or~~ stalking, or trafficking case and related to the safety of a victim or the safety of the community, an order issued under Chapter 7A, Code of Criminal Procedure, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

1           (2) communicates:

2                   (A) directly with a protected individual or a  
3 member of the family or household in a threatening or harassing  
4 manner;

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

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

26           SECTION 3. Section 25.07(b), Penal Code, is amended by  
27 adding Subdivision (7) to read as follows:

1           (7) "Trafficking" means any conduct that constitutes  
2 an offense under Section 20A.02.

3           SECTION 4. The heading to Section 25.072, Penal Code, is  
4 amended to read as follows:

5           Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR  
6 CONDITIONS OF BOND IN FAMILY VIOLENCE, SEXUAL ASSAULT OR ABUSE,  
7 STALKING, OR TRAFFICKING CASE.

8           SECTION 5. Articles 14.03(a) and (b), Code of Criminal  
9 Procedure, are amended to read as follows:

10           (a) Any peace officer may arrest, without warrant:

11               (1) persons found in suspicious places and under  
12 circumstances which reasonably show that such persons have been  
13 guilty of some felony, violation of Title 9, Chapter 42, Penal Code,  
14 breach of the peace, or offense under Section 49.02, Penal Code, or  
15 threaten, or are about to commit some offense against the laws;

16               (2) persons who the peace officer has probable cause  
17 to believe have committed an assault resulting in bodily injury to  
18 another person and the peace officer has probable cause to believe  
19 that there is danger of further bodily injury to that person;

20               (3) persons who the peace officer has probable cause  
21 to believe have committed an offense defined by Section 25.07,  
22 Penal Code [~~(violation of Protective Order), or by Section 38.112,~~  
23 ~~Penal Code (violation of Protective Order issued on basis of sexual~~  
24 ~~assault)], if the offense is not committed in the presence of the  
25 peace officer;~~

26               (4) persons who the peace officer has probable cause  
27 to believe have committed an offense involving family violence;

1           (5) persons who the peace officer has probable cause  
2 to believe have prevented or interfered with an individual's  
3 ability to place a telephone call in an emergency, as defined by  
4 Section 42.062(d), Penal Code, if the offense is not committed in  
5 the presence of the peace officer; or

6           (6) a person who makes a statement to the peace officer  
7 that would be admissible against the person under Article 38.21 and  
8 establishes probable cause to believe that the person has committed  
9 a felony.

10          (b) A peace officer shall arrest, without a warrant, a  
11 person the peace officer has probable cause to believe has  
12 committed an offense under Section 25.07, Penal Code [~~(violation of~~  
13 ~~Protective Order), or Section 38.112, Penal Code (violation of~~  
14 ~~Protective Order issued on basis of sexual assault)], if the  
15 offense is committed in the presence of the peace officer.~~

16          SECTION 6. 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 assault  
25 or abuse, ~~[or]~~ stalking, or trafficking case. Information in the  
26 law enforcement information system relating to an active protective  
27 order shall 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;

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

24 (H) the date the order expires;

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

27 (8) collect and disseminate information regarding

1 offenders with mental impairments in compliance with Chapter 614,  
2 Health and Safety Code; and

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

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

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

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

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

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

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

21 (4) active protective orders and reporting procedures  
22 that ensure that information relating to the issuance and dismissal  
23 of an active protective order is reported to the local law  
24 enforcement agency at the time of the order's issuance or dismissal  
25 and entered by the local law enforcement agency in the state's law  
26 enforcement information system;

27 (5) the collection of information described by

1 Subsection (h);

2 (6) a system for providing criminal history record  
3 information through the criminal history clearinghouse under  
4 Section 411.0845; and

5 (7) active conditions of bond imposed on a defendant  
6 for the protection of a victim in any family violence, sexual  
7 assault or abuse, ~~or~~ stalking, or trafficking case, and reporting  
8 procedures that ensure that information relating to the issuance,  
9 modification, or removal of the conditions of bond is reported, at  
10 the time of the issuance, modification, or removal, to:

11 (A) the victim or, if the victim is deceased, a  
12 close relative of the victim; and

13 (B) the local law enforcement agency for entry by  
14 the local law enforcement agency in the state's law enforcement  
15 information system.

16 SECTION 7. Section 38.112, Penal Code, is repealed.

17 SECTION 8. The change in law made by this Act applies only  
18 to an offense committed on or after the effective date of this Act.  
19 An offense committed before the effective date of this Act is  
20 governed by the law in effect on the date the offense was committed,  
21 and the former law is continued in effect for that purpose. For  
22 purposes of this section, an offense was committed before the  
23 effective date of this Act if any element of the offense occurred  
24 before that date.

25 SECTION 9. This Act takes effect September 1, 2015.