

By: Alvarado, Herrero, Davis of Harris, Dale,
Moody

H.B. No. 1293

Substitute the following for H.B. No. 1293:

By: Herrero

C.S.H.B. No. 1293

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of identifying information of
victims of stalking; creating a criminal offense.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended
by adding Chapter 57A to read as follows:

CHAPTER 57A. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF
VICTIMS OF STALKING

Art. 57A.01. DEFINITIONS. In this chapter:

(1) "Name" means the legal name of a person.

(2) "Pseudonym" means a set of initials or a
fictitious name chosen by a victim to designate the victim in all
public files and records concerning the offense, including police
summary reports, press releases, and records of judicial
proceedings.

(3) "Public servant" has the meaning assigned by
Section 1.07(a), Penal Code.

(4) "Victim" means a person who is the subject of:

(A) an offense that allegedly constitutes
stalking under Section 42.072, Penal Code; or

(B) an offense that is part of the same criminal
episode, as defined by Section 3.01, Penal Code, as an offense under
Section 42.072, Penal Code.

Art. 57A.02. CONFIDENTIALITY OF FILES AND RECORDS. (a) The

1 office of the attorney general shall develop and distribute to all
2 law enforcement agencies of the state a pseudonym form to record the
3 name, address, telephone number, and pseudonym of a victim.

4 (b) A victim may choose a pseudonym to be used instead of the
5 victim's name to designate the victim in all public files and
6 records concerning the offense, including police summary reports,
7 press releases, and records of judicial proceedings. A victim who
8 elects to use a pseudonym as provided by this article must complete
9 a pseudonym form developed under this article and return the form to
10 the law enforcement agency investigating the offense.

11 (c) A victim who completes and returns a pseudonym form to
12 the law enforcement agency investigating the offense may not be
13 required to disclose the victim's name, address, and telephone
14 number in connection with the investigation or prosecution of the
15 offense.

16 (d) A completed and returned pseudonym form is confidential
17 and may not be disclosed to any person other than the victim
18 identified by the pseudonym form, a defendant in the case, or the
19 defendant's attorney, except on an order of a court of competent
20 jurisdiction. The court finding required by Subsection (g) is not
21 required to disclose the confidential pseudonym form to the victim
22 identified by the pseudonym form, the defendant in the case, or the
23 defendant's attorney.

24 (e) If a victim completes and returns a pseudonym form to a
25 law enforcement agency under this article, the law enforcement
26 agency receiving the form shall:

27 (1) remove the victim's name and substitute the

pseudonym for the name on all reports, files, and records in the agency's possession;

(2) notify the attorney for the state of the pseudonym and that the victim has elected to be designated by the pseudonym;

(3) provide to the victim a copy of the completed pseudonym form showing that the form was returned to the law enforcement agency; and

(4) maintain the form in a manner that protects the confidentiality of the information contained on the form.

(f) An attorney for the state who receives notice that a victim has elected to be designated by a pseudonym shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the offense.

(g) A court of competent jurisdiction may order the disclosure of a victim's name, address, and telephone number only if the court finds that:

(1) the information is essential in the trial of the defendant for the offense;

(2) the identity of the victim is in issue; or

(3) the disclosure is in the best interest of the victim.

(h) Except as required or permitted by other law or by court order, a public servant or other person who has access to or obtains the name, address, telephone number, or other identifying information of a victim younger than 17 years of age may not release or disclose the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the

1 case. This subsection does not apply to the release or disclosure
2 of a victim's identifying information by:

3 (1) the victim; or

4 (2) the victim's parent, conservator, or guardian,
5 unless the victim's parent, conservator, or guardian allegedly
6 committed the offense described by Article 57A.01(4).

7 Art. 57A.03. OFFENSE. (a) A public servant with access to
8 the name, address, or telephone number of a victim 17 years of age
9 or older who has chosen a pseudonym under this chapter commits an
10 offense if the public servant knowingly discloses the name,
11 address, or telephone number of the victim to any person who is not
12 assisting in the investigation or prosecution of the offense or to
13 any person other than the defendant, the defendant's attorney, or
14 the person specified in the order of a court of competent
15 jurisdiction.

16 (b) Unless the disclosure is required or permitted by other
17 law, a public servant or other person commits an offense if the
18 person:

19 (1) has access to or obtains the name, address, or
20 telephone number of a victim younger than 17 years of age; and

21 (2) knowingly discloses the name, address, or
22 telephone number of the victim to any person who is not assisting in
23 the investigation or prosecution of the offense or to any person
24 other than the defendant, the defendant's attorney, or a person
25 specified in an order of a court of competent jurisdiction.

26 (c) It is an affirmative defense to prosecution under
27 Subsection (b) that the actor is:

1 (1) the victim; or

2 (2) the victim's parent, conservator, or guardian,
3 unless the victim's parent, conservator, or guardian allegedly
4 committed the offense described by Article 57A.01(4).

5 (d) An offense under this article is a Class C misdemeanor.

6 Art. 57A.04. EFFECT ON OTHER LAW. This chapter does not
7 affect:

8 (1) a victim's responsibility to provide documentation
9 of stalking under Section 92.0161, Property Code; or

10 (2) a person's power or duty to disclose the documented
11 information as provided by Subsection (j) of that section.

12 SECTION 2. Section 92.0161(c-1), Property Code, is amended
13 to read as follows:

14 (c-1) If the tenant is a victim or a parent or guardian of a
15 victim of stalking under Section 42.072, Penal Code, that takes
16 place during the preceding six-month period on the premises or at
17 any dwelling on the premises, the tenant shall provide to the
18 landlord or the landlord's agent a copy of:

19 (1) documentation of a protective order issued under
20 Chapter 7A or Article 6.09, Code of Criminal Procedure, except for a
21 temporary ex parte order; or

22 (2) documentation of the stalking from a provider of
23 services described by Subsection (c)(1), (2), or (3) and:

24 (A) a law enforcement incident report~~[+]~~ or
25 ~~[(B)]~~ if a law enforcement incident report is
26 unavailable, another record maintained in the ordinary course of
27 business by a law enforcement agency; and

1 (B) if the report or record described by
2 Paragraph (A) identifies the victim by means of a pseudonym, as
3 defined by Article 57A.01, Code of Criminal Procedure, a copy of a
4 pseudonym form completed and returned under Article 57A.02 of that
5 code.

6 SECTION 3. Not later than October 1, 2015, the office of the
7 attorney general shall develop and distribute to all law
8 enforcement agencies of the state a pseudonym form to record the
9 name, address, telephone number, and pseudonym of a victim as
10 required by Article 57A.02, Code of Criminal Procedure, as added by
11 this Act.

12 SECTION 4. This Act takes effect September 1, 2015.