

By: Alvarado

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 a defendant in the  
18 case or the defendant's attorney, except on an order of a court of  
19 competent jurisdiction. The court finding required by Subsection  
20 (g) is not required to disclose the confidential pseudonym form to  
21 the defendant in the case or to the defendant's attorney.

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

25 (1) remove the victim's name and substitute the  
26 pseudonym for the name on all reports, files, and records in the  
27 agency's possession;

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

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

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

10          (g) A court of competent jurisdiction may order the  
11 disclosure of a victim's name, address, and telephone number only  
12 if the court finds that the information is essential in the trial of  
13 the defendant for the offense or the identity of the victim is in  
14 issue.

15          (h) Except as required or permitted by other law or by court  
16 order, a public servant or other person who has access to or obtains  
17 the name, address, telephone number, or other identifying  
18 information of a victim younger than 17 years of age may not release  
19 or disclose the identifying information to any person who is not  
20 assisting in the investigation, prosecution, or defense of the  
21 case. This subsection does not apply to the release or disclosure  
22 of a victim's identifying information by:

23           (1) the victim; or

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

27          Art. 57A.03. OFFENSE. (a) A public servant with access to

1 the name, address, or telephone number of a victim 17 years of age  
2 or older who has chosen a pseudonym under this chapter commits an  
3 offense if the public servant knowingly discloses the name,  
4 address, or telephone number of the victim to any person who is not  
5 assisting in the investigation or prosecution of the offense or to  
6 any person other than the defendant, the defendant's attorney, or  
7 the person specified in the order of a court of competent  
8 jurisdiction.

9 (b) Unless the disclosure is required or permitted by other  
10 law, a public servant or other person commits an offense if the  
11 person:

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

14 (2) knowingly discloses the name, address, or  
15 telephone number of the victim to any person who is not assisting in  
16 the investigation or prosecution of the offense or to any person  
17 other than the defendant, the defendant's attorney, or a person  
18 specified in an order of a court of competent jurisdiction.

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

21 (1) the victim; or

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

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

26 SECTION 2. Not later than October 1, 2015, the office of the  
27 attorney general shall develop and distribute to all law

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1 enforcement agencies of the state a pseudonym form to record the  
2 name, address, telephone number, and pseudonym of a victim as  
3 required by Article 57A.02, Code of Criminal Procedure, as added by  
4 this Act.

5 SECTION 3. This Act takes effect September 1, 2015.