

By: Phelan

H.B. No. 289

A BILL TO BE ENTITLED

AN ACT

relating to protective orders for certain children who are victims of abuse or neglect.

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

SECTION 1. Chapter 261, Family Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT

Sec. 261.501. FILING APPLICATION FOR PROTECTIVE ORDER IN CERTAIN CASES OF ABUSE OR NEGLECT. The department may file an application for a protective order for a child's protection under this subchapter on the department's own initiative or jointly with a parent, relative, or caregiver of the child who requests the filing of the application if the department:

(1) determines that:

(A) the child is a victim of abuse or neglect; and

(B) there is an immediate or continuing danger of abuse or neglect to the child; and

(2) is not otherwise authorized to apply for a protective order for the child's protection under Chapter 82.

Sec. 261.502. CERTIFICATION OF FINDINGS. (a) In making the application under this subchapter, the department must certify that:

(1) the department has diligently searched for and:

(A) was unable to locate the child's parent,

1 legal guardian, or custodian, other than the respondent to the
2 application; or

3 (B) located and provided notice of the proposed
4 application to the child's parent, legal guardian, or custodian,
5 other than the respondent to the application; and

6 (2) if applicable, the relative or caregiver who is
7 jointly filing the petition, or with whom the child would reside
8 following an entry of the protective order, has not abused or
9 neglected the child and does not have a history of abuse or neglect.

10 (b) An application for a temporary ex parte order under
11 Section 261.503 may be filed without making the findings required
12 by Subsection (a) if the department certifies that the department
13 believes that there is an immediate danger of abuse or neglect to
14 the child.

15 Sec. 261.503. TEMPORARY EX PARTE ORDER. If the court finds
16 from the information contained in an application for a protective
17 order that there is an immediate danger of abuse or neglect to the
18 child, the court, without further notice to the respondent and
19 without a hearing, may enter a temporary ex parte order for the
20 protection of the child.

21 Sec. 261.504. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
22 ORDER. (a) At the close of a hearing on an application for a
23 protective order under this subchapter, the court shall find
24 whether there are reasonable grounds to believe that the child is
25 the victim of abuse or neglect and that there is an immediate or
26 continuing danger of abuse or neglect to the child.

27 (b) If the court makes an affirmative finding under

1 Subsection (a), the court shall issue a protective order that
2 includes a statement of that finding.

3 Sec. 261.505. APPLICATION OF OTHER LAW. To the extent
4 applicable, except as otherwise provided by this subchapter, Title
5 4 applies to a protective order issued under this subchapter.

6 SECTION 2. The heading to Section 25.07, Penal Code, is
7 amended to read as follows:

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

11 SECTION 3. 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, sexual assault or abuse,
15 stalking, or trafficking case and related to the safety of a victim
16 or the safety of the community, an order issued under Chapter 7A,
17 Code of Criminal Procedure, an order issued under Article 17.292,
18 Code of Criminal Procedure, an order issued under Section 6.504,
19 Family Code, Chapter 83, Family Code, if the temporary ex parte
20 order has been served on the person, [~~ex~~] Chapter 85, Family Code,
21 or Subchapter F, Chapter 261, Family Code, or an order issued by
22 another jurisdiction as provided by Chapter 88, Family Code, the
23 person knowingly or intentionally:

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

26 (2) communicates:

27 (A) directly with a protected individual or a

1 member of the family or household in a threatening or harassing
2 manner;

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

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

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

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

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

19 (4) possesses a firearm;

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

24 (6) removes, attempts to remove, or otherwise tampers
25 with the normal functioning of a global positioning monitoring
26 system.

27 SECTION 4. The heading to Section [25.072](#), Penal Code, is

1 amended to read as follows:

2 Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR
3 CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT,
4 SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

5 SECTION 5. This Act takes effect September 1, 2017.