

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Leach

H.B. No. 1343

A BILL TO BE ENTITLED

1 AN ACT

2 relating to persons who may be prosecuted for the criminal offense  
3 of improper contact with a victim.

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

5 SECTION 1. Section 38.111(a), Penal Code, is amended to  
6 read as follows:

7 (a) A person commits an offense if the person, while  
8 confined in a correctional facility after being charged with or  
9 convicted of an offense listed in Article 62.001(5), Code of  
10 Criminal Procedure, contacts by letter, telephone, or any other  
11 means, either directly or through a third party, a victim of the  
12 offense or a member of the victim's family, if ~~[+~~

13 ~~[(1) the victim was younger than 17 years of age at the~~  
14 ~~time of the commission of the offense for which the person is~~  
15 ~~confined; and~~

16 ~~[(2)]~~ the director of the correctional facility has  
17 not, before the person makes contact with the victim:

18 (1) [(A)] received written and dated consent to the  
19 contact from:

20 (A) the victim, if the victim was 17 years of age  
21 or older at the time of the commission of the offense for which the  
22 person is confined; or

23 (B) if the victim was younger than 17 years of age  
24 at the time of the commission of the offense for which the person is

1 confined:

- 2 (i) a parent of the victim;
- 3 (ii) a legal guardian of the victim;
- 4 (iii) the victim, if the victim is 17 years
- 5 of age or older at the time of giving the consent; or
- 6 (iv) a member of the victim's family who is
- 7 17 years of age or older; and

8 (2) [~~(B)~~] provided the person with a copy of the

9 consent.

10 SECTION 2. The change in law made by this Act applies only

11 to an offense committed on or after the effective date of this Act.

12 An offense committed before the effective date of this Act is

13 governed by the law in effect on the date the offense was committed,

14 and the former law is continued in effect for that purpose. For

15 purposes of this section, an offense was committed before the

16 effective date of this Act if any element of the offense occurred

17 before that date.

18 SECTION 3. This Act takes effect September 1, 2019.

**ADOPTED**

MAY 17 2019

*Larry Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

*D. Bullock*

1 Amend H.B. No. 1343 (senate committee printing) as follows:

2 (1) In SECTION 2 of the bill (page 1, line 49), between "The  
3 change in law made by this Act" and "applies", insert "to Section  
4 38.111(a), Penal Code,".

5 (2) Add the following appropriately numbered SECTIONS to the  
6 bill and renumber subsequent SECTIONS of the bill accordingly:

7 SECTION \_\_\_\_ . Article 7A.01, Code of Criminal Procedure, is  
8 amended by adding Subsections (a-1) and (a-2) to read as follows:

9 (a-1) Except as provided by Subsection (a-2), if an  
10 application has not yet been filed in the case under Subsection  
11 (a), the attorney representing the state shall promptly file an  
12 application for a protective order with respect to each victim of  
13 an offense listed in Subdivision (1) or (2) of that subsection  
14 following the offender's conviction of or placement on deferred  
15 adjudication community supervision for the offense.

16 (a-2) The attorney representing the state may not file an  
17 application under Subsection (a-1) with respect to a victim who is  
18 at least 18 years of age if the victim requests that the attorney  
19 representing the state not file the application.

20 SECTION \_\_\_\_ . Article 7A.03, Code of Criminal Procedure, is  
21 amended by adding Subsection (c) to read as follows:

22 (c) An offender's conviction of or placement on deferred  
23 adjudication community supervision for an offense listed in  
24 Article 7A.01(a)(1) or (2) constitutes reasonable grounds under  
25 Subsection (a).

26 SECTION \_\_\_\_ . Article 7A.07, Code of Criminal Procedure, is  
27 amended by adding Subsection (a-1) to read as follows:

28 (a-1) The court shall issue a protective order effective for  
29 the duration of the lives of the offender and victim if the

1 offender is:

2 (1) convicted of or placed on deferred adjudication  
3 community supervision for an offense listed in Article 7A.01(a)(1)  
4 or (2); and

5 (2) required under Chapter 62 to register for life as  
6 a sex offender.

7 SECTION \_\_\_\_ . Section 25.07(g), Penal Code, is amended to  
8 read as follows:

9 (g) An offense under this section is a Class A misdemeanor,  
10 except the offense is:

11 (1) subject to Subdivision (2), a state jail felony if  
12 it is shown at the trial of the offense that the defendant violated  
13 an order issued as a result of an application filed under Article  
14 7A.01(a-1), Code of Criminal Procedure; or

15 (2) a felony of the third degree if it is shown on the  
16 trial of the offense that the defendant:

17 (A) [~~+1~~] has previously been convicted two or  
18 more times of an offense under this section or two or more times  
19 of an offense under Section 25.072, or has previously been  
20 convicted of an offense under this section and an offense under  
21 Section 25.072; or

22 (B) [~~+2~~] has violated the order or condition of  
23 bond by committing an assault or the offense of stalking.

24 SECTION \_\_\_\_ . The changes in law made by this Act to Chapter  
25 7A, Code of Criminal Procedure, apply only to a judgment of  
26 conviction entered on or after the effective date of this Act or  
27 a grant of deferred adjudication community supervision made on or  
28 after the effective date of this Act.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 20, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1343** by Leach (Relating to persons who may be prosecuted for the criminal offense of improper contact with a victim.), **As Passed 2nd House**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would amend various codes as they relate to improper contact with a victim, sex offender registration, protective orders, and punishment for violation of protective orders. Under the provisions of the bill, for a confined individual to engage in conduct constituting contact with certain victims when the director of the facility has not received, from these victims, written and dated consent to the contact, would qualify as improper contact with a victim. Under existing statute, this offense is punishable as a class A misdemeanor or third degree felony depending on the specific circumstances of the offense. Additionally, under the bill's provisions, certain violations of protective orders would now be punishable as a state jail felony. Under existing statute, violations of certain court orders are punishable at the misdemeanor and felony level with the punishment based on the specific circumstances of the offense.

The Office of Court Administration and the Texas Department of Criminal Justice indicate the modifications outlined in the bill's provisions will not result in a significant fiscal impact. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** WP, LBO, LM, DGi

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**Austin, Texas**

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**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** **HB1343** by Leach (Relating to persons who may be prosecuted for the criminal offense of improper contact with a victim.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Penal Code to make it an offense for a confined individual to engage in conduct that constitutes contact with certain victims if the director of the facility has not received, from these victims, written and dated consent to the contact. Under existing statute, improper contact with a victim is a Class A misdemeanor or third degree felony depending on the specific circumstances of the offense.

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**Source Agencies:**     212 Office of Court Administration, Texas Judicial Council, 696  
                                 Department of Criminal Justice

**LBB Staff:** WP, LBO, LM, DGi, AF

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 3, 2019**

**TO:** Honorable James White, Chair, House Committee on Corrections

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB1343** by Leach (Relating to persons who may be prosecuted for the criminal offense of improper contact with a victim.), **As Introduced**

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**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

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A third degree felony is punishable by confinement in prison for a term from 2 to 10 years. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are also subject to a \$10,000 fine. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Both expanding the list of behaviors for which a criminal penalty can be applied and increasing the penalty for any criminal offense are expected to result in additional demands on the correctional resources of the counties or of the State due to a longer terms of supervision in the community or longer terms of confinement within state correctional institutions. In fiscal year 2018, 3,234 individuals were arrested, 258 were placed under felony community supervision, and fewer than 10 were admitted into state correctional institutions for the offenses for which the bill proposes changes. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

**Source Agencies:**

**LBB Staff:** WP, LM, DGi



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A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Expanding the list of behaviors for which a criminal penalty can be applied is expected to result in additional demands on the correctional resources of the counties or of the State due to a longer terms of supervision in the community or longer terms of confinement within state correctional institutions. In fiscal year 2018, fewer than 10 individuals were arrested, fewer than 10 were placed under felony community supervision, and fewer than 10 were admitted into state correctional institutions for the offense of improper contact with a victim under existing statute punishable as a third degree felony. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

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