

## **BILL ANALYSIS**

C.S.H.B. 2715  
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Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In instances of domestic violence and stalking, the tracking of an individual or monitoring of their movements is often used by an abuser as a coercive control tactic intended to intimidate and harass the victim. Even after a survivor has obtained the necessary protections such as obtaining a protective order or filing for divorce, there is no law that clearly prohibits an abuser from tracking or monitoring the movements of an individual, including tracking their personal property or a vehicle in their possession. Laws related to protective orders, bail requirements for family violence, and temporary restraining orders in a suit for dissolution of marriage should clearly prohibit the tracking or monitoring of an individual without their effective consent, as to protect victims from further intimidation and harassment. C.S.H.B. 2715 seeks to protect individuals from such tracking or monitoring by authorizing a court that is issuing certain protective orders, temporary restraining orders, or emergency protection orders to prohibit such conduct and by authorizing a magistrate to require as a condition of release on bond that a defendant charged with an offense involving family violence refrain from such conduct.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2715 amends the Code of Criminal Procedure and Family Code to authorize a court or magistrate, as applicable, that is issuing a protective order for a victim of sexual assault or abuse, indecent assault, stalking, or trafficking or for a victim of family violence, granting a temporary restraining order after a suit for dissolution of a marriage, or issuing an emergency protection order to prohibit the individual subject to the order from tracking or monitoring personal property or a motor vehicle in the possession of the applicant or of a member of the applicant's family or household, without the applicant's effective consent, including by:

- using a tracking application on a personal electronic device in the possession of the applicant or the family or household member or using a tracking device; or
- physically following the applicant or the family or household member or causing another to physically follow the applicant or member.

The bill also authorizes a magistrate to require as a condition of release on bond that a defendant charged with an offense involving family violence refrain from such conduct. These provisions apply only to a protective or restraining order rendered, or a magistrate's order for emergency protection entered, on or after the bill's effective date. The bill's provisions apply only to a defendant released on bond in connection with an offense committed on or after that date.

C.S.H.B. 2715 amends the Penal Code to expand the conduct that constitutes a violation of certain court orders or conditions of bond in a family violence, child abuse or neglect, sexual assault or abuse, indecent assault, stalking, or trafficking case and that constitutes harassment to include knowingly or intentionally tracking or monitoring personal property or a motor vehicle in the possession of a protected individual or of a member of the family or household of that individual, without the individual's effective consent, including by doing the following:

- using a tracking application on a personal electronic device in the possession of the protected individual or the family or household member or using a tracking device; or
- physically following the protected individual or family or household member or causing another to physically follow the individual or member.

With respect to harassment by means of tracking or monitoring the personal property or motor vehicle of another person, it is presumed that the person did not give effective consent to the actor's conduct if:

- an application for an applicable protective or restraining order against or with respect to the actor has been filed by or on behalf of the person or an applicable order has been issued against or with respect to the actor; or
- the person is married to the actor and a petition for dissolution of marriage has been filed, or the person was previously married to the actor and the marriage has been dissolved.

C.S.H.B. 2715, with respect to the bill's Penal Code provisions, applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

#### **EFFECTIVE DATE**

September 1, 2023.

#### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 2715 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

With regard to the introduced version's provisions authorizing a judge or magistrate to prohibit an individual subject to an applicable order from tracking or monitoring personal property or a motor vehicle in the possession of the applicant or of a member of the applicant's family or household, without the applicant's consent, the substitute includes specifications absent from the introduced that such consent is the applicant's effective consent. The substitute omits a provision from the introduced authorizing a court, in a protective order for family violence, to prohibit any party from tracking or monitoring personal property or a motor vehicle in the possession of a person named in the order, without that person's consent, including by:

- using a tracking application on a personal electronic device in the possession of the person or using a tracking device; or
- physically following the person or causing another to physically follow the person.