88R7085 JSC-D

By:  Landgraf H.B. No. 1784

A BILL TO BE ENTITLED

AN ACT

relating to certain requirements of protective orders and conditions of release on bond and to the criminal penalties for violating those requirements and conditions.

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

SECTION 1.  Article 7B.005(a), Code of Criminal Procedure, is amended to read as follows:

(a)  In a protective order issued under this subchapter, the court may:

(1)  order the alleged offender to take action as specified by the court that the court determines is necessary or appropriate to prevent or reduce the likelihood of future harm to the applicant or a member of the applicant's family or household; or

(2)  prohibit the alleged offender from:

(A)  communicating:

(i)  directly or indirectly with the applicant or any member of the applicant's family or household in a threatening or harassing manner; or

(ii)  in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court, if the court finds good cause for the prohibition;

(B)  going to or near the residence, place of employment or business, or child-care facility or school of the applicant or any member of the applicant's family or household;

(C)  engaging in conduct directed specifically toward the applicant or any member of the applicant's family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person; [~~and~~]

(D)  possessing a firearm, unless the alleged offender is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision; and

(E)  remotely controlling an electronic device affecting the residence, vehicle, or property of:

(i)  an applicant; or

(ii)  a member of the applicant's family or household.

SECTION 2.  Article 17.292(c), Code of Criminal Procedure, is amended to read as follows:

(c)  The magistrate in the order for emergency protection may prohibit the arrested party from:

(1)  committing:

(A)  family violence or an assault on the person protected under the order; or

(B)  an act in furtherance of an offense under Section 20A.02 or 42.072, Penal Code;

(2)  communicating:

(A)  directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner;

(B)  a threat through any person to a member of the family or household or to the person protected under the order; or

(C)  if the magistrate finds good cause, in any manner with a person protected under the order or a member of the family or household of a person protected under the order, except through the party's attorney or a person appointed by the court;

(3)  going to or near:

(A)  the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or

(B)  the residence, child care facility, or school where a child protected under the order resides or attends; [~~or~~]

(4)  possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision; or

(5)  remotely controlling an electronic device affecting the residence, vehicle, or property of:

(A)  a person protected under the order; or

(B)  a member of the family or household of a person protected under the order.

SECTION 3.  Article 17.49(b), Code of Criminal Procedure, is amended to read as follows:

(b)  A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1)  refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2)  carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay a reimbursement fee for the costs associated with operating that system in relation to the defendant; [~~or~~]

(3)  except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay a reimbursement fee for the costs associated with providing the victim with an electronic receptor device that:

(A)  is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B)  notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1); or

(4)  refrain from remotely controlling an electronic device affecting the residence, vehicle, or property of an alleged victim of the offense.

SECTION 4.  Section 85.021, Family Code, is amended to read as follows:

Sec. 85.021.  REQUIREMENTS OF ORDER APPLYING TO ANY PARTY. In a protective order, the court may:

(1)  prohibit a party from:

(A)  removing a child who is a member of the family or household from:

(i)  the possession of a person named in the order; or

(ii)  the jurisdiction of the court;

(B)  transferring, encumbering, or otherwise disposing of property, other than in the ordinary course of business, that is mutually owned or leased by the parties; [~~or~~]

(C)  removing a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, from the possession or actual or constructive care of a person named in the order; or

(D)  remotely controlling an electronic device affecting the residence, vehicle, or property of a person named in the order;

(2)  grant exclusive possession of a residence to a party and, if appropriate, direct one or more parties to vacate the residence if the residence:

(A)  is jointly owned or leased by the party receiving exclusive possession and a party being denied possession;

(B)  is owned or leased by the party retaining possession; or

(C)  is owned or leased by the party being denied possession and that party has an obligation to support the party or a child of the party granted possession of the residence;

(3)  provide for the possession of and access to a child of a party if the person receiving possession of or access to the child is a parent of the child;

(4)  require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child; or

(5)  award to a party the use and possession of specified property that is community property or jointly owned or leased property.

SECTION 5.  Section 85.022(b), Family Code, is amended to read as follows:

(b)  In a protective order, the court may prohibit the person found to have committed family violence from:

(1)  committing family violence;

(2)  communicating:

(A)  directly with a person protected by an order or a member of the family or household of a person protected by an order, in a threatening or harassing manner;

(B)  a threat through any person to a person protected by an order or a member of the family or household of a person protected by an order; and

(C)  if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected by an order, except through the party's attorney or a person appointed by the court;

(3)  going to or near the residence or place of employment or business of a person protected by an order or a member of the family or household of a person protected by an order;

(4)  going to or near the residence, child-care facility, or school a child protected under the order normally attends or in which the child normally resides;

(5)  engaging in conduct directed specifically toward a person who is a person protected by an order or a member of the family or household of a person protected by an order, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person;

(6)  possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision; [~~and~~]

(7)  harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, that is possessed by or is in the actual or constructive care of a person protected by an order or by a member of the family or household of a person protected by an order; and

(8)  remotely controlling an electronic device affecting the residence, vehicle, or property of:

(A)  a person protected by an order; or

(B)  a member of the family or household of a person protected by an order.

SECTION 6.  Section 25.07(a), Penal Code, is amended to read as follows:

(a)  A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, indecent assault, stalking, or trafficking case and related to the safety of a victim or the safety of the community, an order issued under Subchapter A, Chapter 7B, Code of Criminal Procedure, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, Chapter 85, Family Code, or Subchapter F, Chapter 261, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1)  commits family violence or an act in furtherance of an offense under Section 20A.02, 22.011, 22.012, 22.021, or 42.072;

(2)  communicates:

(A)  directly with a protected individual or a member of the family or household in a threatening or harassing manner;

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

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

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

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

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

(4)  possesses a firearm;

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

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

(7)  remotely controls an electronic device affecting the residence, vehicle, or property of:

(A)  a protected individual; or

(B)  a member of the family or household of a protected individual.

SECTION 7.  (a) Article 7B.005, Code of Criminal Procedure, as amended by this Act, and Sections 85.021 and 85.022, Family Code, as amended by this Act, apply only to a protective order rendered on or after the effective date of this Act. A protective order rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

(b)  Article 17.292, Code of Criminal Procedure, as amended by this Act, applies only to a magistrate's order for emergency protection entered on or after the effective date of this Act. A magistrate's order for emergency protection entered before the effective date of this Act is governed by the law in effect on the date the order was entered, and the former law is continued in effect for that purpose.

(c)  Article 17.49, Code of Criminal Procedure, as amended by this Act, applies only to a defendant released on bond in connection with an offense committed on or after the effective date of this Act. A defendant released on bond in connection with an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.  For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(d)  Section 25.07, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.  For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 8.  This Act takes effect September 1, 2023.