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H.B. No. 1784

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain requirements of protective orders and
3 conditions of release on bond and to the criminal penalties for
4 violating those requirements and conditions.

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

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

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

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

14 (2) prohibit the alleged offender from:

15 (A) communicating:

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

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

23 (B) going to or near the residence, place of
24 employment or business, or child-care facility or school of the

1 applicant or any member of the applicant's family or household;

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

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

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

13 (i) an applicant; or

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

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

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

20 (1) committing:

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

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

25 (2) communicating:

26 (A) directly with a member of the family or
27 household or with the person protected under the order in a

1 threatening or harassing manner;

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

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

8 (3) going to or near:

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

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

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

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

20 (A) a person protected under the order; or

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

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

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

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

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

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

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

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

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

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

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

26 (1) prohibit a party from:

27 (A) removing a child who is a member of the family

1 or household from:

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

4 (ii) the jurisdiction of the court;

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

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

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

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

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

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

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

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

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

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

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

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

11 (1) committing family violence;

12 (2) communicating:

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

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

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

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

26 (4) going to or near the residence, child-care
27 facility, or school a child protected under the order normally

1 attends or in which the child normally resides;

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

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

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

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

19 (A) a person protected by an order; or

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

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

24 (a) A person commits an offense if, in violation of a
25 condition of bond set in a family violence, sexual assault or abuse,
26 indecent assault, stalking, or trafficking case and related to the
27 safety of a victim or the safety of the community, an order issued

1 under Subchapter A, Chapter 7B, Code of Criminal Procedure, an
2 order issued under Article 17.292, Code of Criminal Procedure, an
3 order issued under Section 6.504, Family Code, Chapter 83, Family
4 Code, if the temporary ex parte order has been served on the person,
5 Chapter 85, Family Code, or Subchapter F, Chapter 261, Family Code,
6 or an order issued by another jurisdiction as provided by Chapter
7 88, Family Code, the person knowingly or intentionally:

8 (1) commits family violence or an act in furtherance
9 of an offense under Section 20A.02, 22.011, 22.012, 22.021, or
10 42.072;

11 (2) communicates:

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

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

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

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

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

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

4 (4) possesses a firearm;

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

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

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

14 (A) a protected individual; or

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

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

24 (b) Article 17.292, Code of Criminal Procedure, as amended
25 by this Act, applies only to a magistrate's order for emergency
26 protection entered on or after the effective date of this Act. A
27 magistrate's order for emergency protection entered before the

1 effective date of this Act is governed by the law in effect on the
2 date the order was entered, and the former law is continued in
3 effect for that purpose.

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

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

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