

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

MAY 30 2015

~~May 29, 2015~~

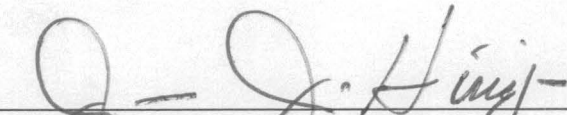
Date

Honorable Dan Patrick
President of the Senate

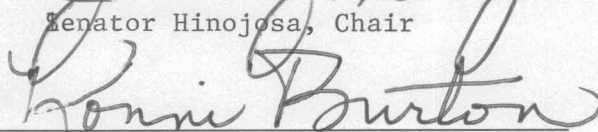
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

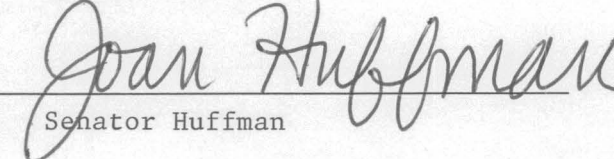
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill 2645 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Senator Hinojosa, Chair

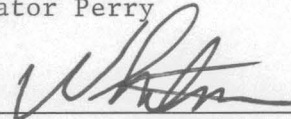


Senator Burton

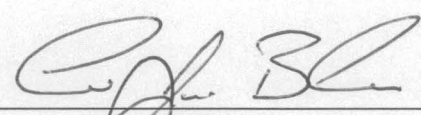


Senator Huffman

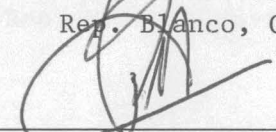
Senator Perry



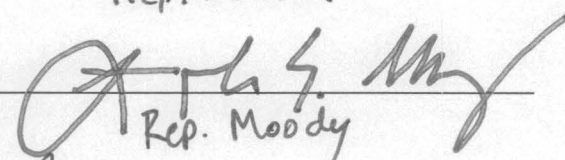
On the part of the Senate
Senator Whitmire




Rep. Blanco, Chair



Rep. Fallon

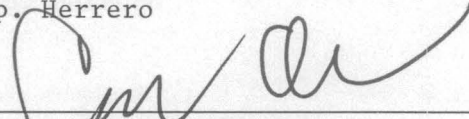


Rep. Moody



Rep. Herrero

Rep. Herrero



On the part of the House
Rep. Alvarado

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2645

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of certain offenses involving family
3 violence and to the violation of certain court orders or conditions
4 of bond in a family violence, sexual assault or abuse, or stalking
5 case.

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

7 SECTION 1. Chapter 38, Code of Criminal Procedure, is
8 amended by adding Article 38.371 to read as follows:

9 Art. 38.371. EVIDENCE IN PROSECUTIONS OF CERTAIN OFFENSES
10 INVOLVING FAMILY VIOLENCE. (a) This article applies to a
11 proceeding in the prosecution of a defendant for an offense, or for
12 an attempt or conspiracy to commit an offense, that is committed
13 under:

14 (1) Section 22.01 or 22.02, Penal Code, against a
15 person whose relationship to or association with the defendant is
16 described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

17 (2) Section 25.07 or 25.072, Penal Code, if the
18 offense is based on a violation of an order or a condition of bond in
19 a case involving family violence.

20 (b) In the prosecution of an offense described by Subsection
21 (a), subject to the Texas Rules of Evidence or other applicable law,
22 each party may offer testimony or other evidence of all relevant
23 facts and circumstances that would assist the trier of fact in
24 determining whether the actor committed the offense described by

1 Subsection (a), including testimony or evidence regarding the
2 nature of the relationship between the actor and the alleged
3 victim.

4 (c) This article does not permit the presentation of
5 character evidence that would otherwise be inadmissible under the
6 Texas Rules of Evidence or other applicable law.

7 SECTION 2. Section 25.07(a), Penal Code, is amended to read
8 as follows:

9 (a) A person commits an offense if, in violation of a
10 condition of bond set in a family violence, sexual assault or abuse,
11 or stalking case and related to the safety of a victim or the safety
12 of the community, an order issued under Article 17.292, Code of
13 Criminal Procedure, an order issued under Section 6.504, Family
14 Code, Chapter 83, Family Code, if the temporary ex parte order has
15 been served on the person, or Chapter 85, Family Code, or an order
16 issued by another jurisdiction as provided by Chapter 88, Family
17 Code, the person knowingly or intentionally:

18 (1) commits family violence or an act in furtherance
19 of an offense under Section 22.011, 22.021, or 42.072;

20 (2) communicates:

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

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

26 (C) in any manner with the protected individual
27 or a member of the family or household except through the person's

1 attorney or a person appointed by the court, if the violation is of
2 an order described by this subsection and the order prohibits any
3 communication with a protected individual or a member of the family
4 or household;

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

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

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

13 (4) possesses a firearm; ~~[or]~~

14 (5) harms, threatens, or interferes with the care,
15 custody, or control of a pet, companion animal, or assistance
16 animal that is possessed by a person protected by the order; or

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

20 SECTION 3. Section 25.07(b), Penal Code, is amended by
21 adding Subdivision (2-a) to read as follows:

22 (2-a) "Global positioning monitoring system" has the
23 meaning assigned by Article 17.49, Code of Criminal Procedure.

24 SECTION 4. (a) The change in law made by this Act in adding
25 Article 38.371, Code of Criminal Procedure, applies to the
26 admissibility of evidence in a criminal proceeding that commences
27 on or after the effective date of this Act. The admissibility of

1 evidence in a criminal proceeding that commences before the
2 effective date of this Act is governed by the law in effect on the
3 date the proceeding commenced, and the former law is continued in
4 effect for that purpose.

5 (b) The change in law made by this Act in amending Section
6 25.07, Penal Code, applies only to an offense committed on or after
7 the effective date of this Act. An offense committed before the
8 effective date of this Act is governed by the law in effect on the
9 date the offense was committed, and the former law is continued in
10 effect for that purpose. For purposes of this subsection, an
11 offense was committed before the effective date of this Act if any
12 element of the offense occurred before that date.

13 SECTION 5. This Act takes effect September 1, 2015.

House Bill 2645
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 1. 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, or stalking case and related to the safety of a victim or the safety of the community, 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, or Chapter 85,

SENATE VERSION (CS)

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.371 to read as follows:

Art. 38.371. EVIDENCE IN PROSECUTIONS OF CERTAIN OFFENSES INVOLVING FAMILY VIOLENCE.

(a) This article applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, that is committed under:

(1) Section 22.01 or 22.02, Penal Code, against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(2) Section 25.07 or 25.072, Penal Code, if the offense is based on a violation of an order or a condition of bond in a case involving family violence.

(b) In the prosecution of an offense described by Subsection (a), subject to the Texas Rules of Evidence or other applicable law, each party may offer testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed the offense described by Subsection (a), including testimony or evidence regarding the nature of the relationship between the actor and the alleged victim.

SECTION 2. 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, or stalking case and related to the safety of a victim or the safety of the community, 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, or Chapter 85,

CONFERENCE

SECTION 1. Same as Senate version except adds Subsection (c) establishing that the provision does not permit the presentation of character evidence that would otherwise be inadmissible under the Texas Rules of Evidence or other applicable law.

SECTION 2. Same as Senate version.

House Bill 2645
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

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 22.011, 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; [ø]
- (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
- (6) removes or attempts to remove a global positioning monitoring system.

SENATE VERSION (CS)

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 22.011, 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; [ø]
- (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
- (6) removes, attempts to remove, or otherwise tampers with the normal functioning of a global positioning monitoring system.

CONFERENCE

House Bill 2645
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 2. Section 25.07(b), Penal Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Global positioning monitoring system" has the meaning assigned by Article 17.49, Code of Criminal Procedure.

SECTION 3.

The change in law made 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 section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2015.

SENATE VERSION (CS)

SECTION 3. Same as House version.

SECTION 4. *(a) The change in law made by this Act in adding Article 38.371, Code of Criminal Procedure, applies to the admissibility of evidence in a criminal proceeding that commences on or after the effective date of this Act. The admissibility of evidence in a criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.*

(b) The change in law made by this Act in amending Section 25.07, Penal Code, 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 5. Same as House version.

CONFERENCE

SECTION 3. Same as House version.

SECTION 4. Same as Senate version.

SECTION 5. Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 30, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (Relating to the prosecution of certain offenses involving family violence and to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case.), **Conference Committee Report**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Penal Code to include removing, attempting to remove, or tampering with a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. The bill would permit each party in a criminal case involving assault against a family member or other offenses to offer testimony or other evidence regarding the nature of the relationship between the defendant and the alleged victim in certain circumstances. An offense under this section is punishable as a Class A misdemeanor or a third degree felony depending on the circumstances of the offense. This analysis assumes the provisions of the bill would not result in a significant impact on state correctional agencies.

The Office of Court Administration reported no significant fiscal impact to the state court system is anticipated.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, SD, EK, LM, ESi

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 30, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (Relating to the prosecution of certain offenses involving family violence and to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case.), **Conference Committee Report**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to include removing, attempting to remove, or tampering with a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. In certain circumstances, this offense is punishable as a third degree felony.

A third degree felony is punishable by confinement in prison for a term of for two to ten years and an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty can be applied is expected to increase correctional supervision and/or incarceration populations and thereby increase demands on county and/or state correctional resources. In fiscal year 2014, 324 people were arrested, 71 were placed under felony community supervision, and 73 were admitted into state correctional facilities for the felony offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. Data are not available to indicate how often persons under certain court orders or conditions of bond remove, attempt to remove, or tamper with GPS systems. However, this analysis assumes the bill's provisions would not result in a significant impact on state correctional populations, programs, or workloads.

Source Agencies:

LBB Staff: UP, LM, ESi

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on HB 2645 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.


(name)

5/30/15
(date)