

## **BILL ANALYSIS**

Senate Research Center

S.B. 97  
By: Moncrief  
Criminal Justice  
01-15-97  
Committee Report (Unamended)

### **DIGEST**

Currently, Texas law defines stalking as conduct directed specifically toward another person, including following the person, that is intended and is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person, and which, on at least one occasion, threatens to inflict bodily injury on the person or threatens to commit an offense against the person, a member of the person's family, or the person's property. The Texas Court of Criminal Appeals recently struck down this statute on constitutional grounds of "vagueness." S.B. 97 responds to the court's concerns by addressing the issues of course of conduct and continuity of purpose, redefining threatening behavior, and providing reasonable person standards.

### **PURPOSE**

As proposed, S.B. 97 establishes the prosecution, punishment, and sentencing of a defendant charged with the offense of stalking.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 42, Penal Code, by adding Section 42.072, as follows:

Sec. 42.072. STALKING. Provides that a person commits a Class A misdemeanor offense, except that the offense is a third degree felony if the actor has previously been convicted under this section, if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct, including following the other person, that the actor knows or reasonably believes the other person will regard as threatening; that causes the other person or member of the other person's family to be placed in fear of bodily injury, death, or injury to that person's property; and that would cause a reasonable person to fear bodily injury for himself or herself or a member of the person's family or fear that an offense will be committed against the person's property. Defines "family."

SECTION 2. Amends Section 25.07(a), Penal Code, to delete Subdivision (4) and make conforming changes.

SECTION 3. Amends Section 17.29(b), Code of Criminal Procedure, to make a conforming change.

SECTION 4. Amends Article 17.292(a) and (b), Code of Criminal Procedure, to make conforming changes.

SECTION 5. Amends Article 17.46(a), Code of Criminal Procedure, to make a conforming change.

SECTION 6. Amends Section 11(l), Article 42.12, Code of Criminal Procedure, to authorize the court, if the court grants community supervision, rather than probation, to a person convicted of an offense under Section 42.072, Penal Code, to require as a condition of community supervision that the person may not communicate directly or indirectly with the victim or go near the residence, place

of employment, or business of the victim or near a facility where a dependent child of the victim is in attendance. Makes conforming changes.

SECTION 7. Amends Section 8(o)(1), Article 42.18, Code of Criminal Procedure, to make a conforming change.

SECTION 8. Amends Article 56.11(a), Code of Criminal Procedure, to make a conforming change.

SECTION 9. Amends Section 501.006, Government Code, to make conforming changes.

SECTION 10. Repealer: Section 42.071, Penal Code (Stalking).

SECTION 11. Emergency clause.  
Effective date: upon passage.

#### **SUMMARY OF COMMITTEE CHANGES**

There were no committee changes.