

BILL ANALYSIS

Senate Research Center
83R17759 JSC-F

C.S.S.B. 743
By: Nelson
Criminal Justice
4/4/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, violating a protective order is a Class A misdemeanor under Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case), Penal Code. Repeat violations can be prosecuted as a third degree felony if two or more violations are adjudicated within a 12-month period. However, it can take more than a year to adjudicate each violation, thereby leaving victims exposed to harm from offenders who repeatedly violate the order.

C.S.S.B. 743 creates Section 25.072, Penal Code, to create a new criminal offense for a continuous violation of a protective order. Under this offense, offenders can be prosecuted for a third degree felony for two or more violations within a 12-month period, even if they are still being adjudicated.

C.S.S.B. 743 amends current law relating to the penalties prescribed for repeated violations of certain court orders or conditions of bond in a family violence case.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 25, Penal Code, by adding Section 25.072, as follows:

Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN FAMILY VIOLENCE CASE. (a) Provides that a person commits an offense if, during a period that is 12 months or less in duration, the person two or more times engages in conduct that constitutes an offense under Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case).

(b) Requires members of the jury, if the jury is the trier of fact, to agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 25.07.

(c) Prohibits a defendant from being convicted in the same criminal action of another offense an element of which is any conduct that is alleged as an element of the offense under Subsection (a) unless the other offense is charged in the alternative, occurred outside the period in which the offense alleged under Subsection (a) was committed, or is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) Prohibits a defendant from being charged with more than one count under Subsection (a) if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed in violation of a single court order or single setting of bond.

(e) Provides that an offense under this section is a felony of the third degree.

SECTION 2. Amends Section 25.07(g), Penal Code, as follows:

(g) Provides that an offense under this section is a Class A misdemeanor, except the offense is a felony of the third degree if it is shown on the trial of the offense that the defendant:

(1) has previously been convicted two or more times of an offense under this section or two or more times of an offense under Section 25.072, or has previously been convicted of an offense under this section and an offense under Section 25.072; or

(2) has violated the order or condition of bond by committing an assault or the offense of stalking.

Deletes existing text providing that an offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the order or condition of bond by committing an assault or the offense of stalking, in which event the offense is a third degree felony.

SECTION 3. Amends Article 5.07, Code of Criminal Procedure, to provide that the venue for an offense under Section 25.07 or 25.072, Penal Code, is in the county in which the order was issued or, without regard to the identity or location of the court that issued the protective order, in the county in which the offense was committed.

SECTION 4. Amends Section 25.0172(c-1), Government Code, to require the County Court at Law No. 13 of Bexar County, Texas, to give preference to cases prosecuted under certain sections of the Penal Code, including Section 25.072, Penal Code.

SECTION 5. Amends Section 25.2223(l), Government Code, to require the County Criminal Court No. 5 of Tarrant County to give preference to cases brought under certain sections of the Penal Code, including Section 25.072, Penal Code.

SECTION 6. Amends Section 411.081(e), Government Code, to provide that a person is not entitled to petition the court under Subsection (d) (relating to conditions under which a person is authorized to petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection) if the person was placed on the deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication for an offense under Section 25.072, Penal Code, or other certain offenses.

SECTION 7. Amends Section 411.1711, Government Code, to provide that a person is not convicted, as that term is defined by Section 411.171 (Definitions), if an order of deferred adjudication was entered against the person on a date not less than 10 years preceding the date of the person's application for a license under this subchapter (License to Carry a Concealed Handgun) unless the order of deferred adjudication was entered against the person for a felony offense under Section 25.072, Penal Code, other certain sections and titles, or certain offenses under the laws of another state.

SECTION 8. Amends Section 301.4535(a), Occupations Code, as follows:

(a) Requires the Texas Board of Nursing (BON) to suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of an offense involving a violation of certain court orders or conditions of bond under Section 25.07, 25.071, or 25.072, Penal Code, punished as a felony, or other certain offenses. Deletes existing text requiring BON to suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of an offense under Section 25.071, Penal Code, punished as an felony, or under other certain sections.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2013.