

BILL ANALYSIS

Senate Research Center
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S.B. 893
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Although Texas law has created protections for victims of sexual assault, certain statutes require strengthening in order to provide these victims with the same level of protections afforded to victims of family violence. While courts have the explicit authority to prevent communication of any kind between victims of family violence and an assailant, current law regarding sexual assault protective orders in Chapter 38 (Obstructing Governmental Operation), Penal Code, only prohibits communications of a "threatening or harassing" nature for sexual assault cases, which is considered a Class A misdemeanor. In addition, current law considers a violation of bond conditions in family violence cases at least a Class A misdemeanor in Chapter 25 (Offenses Against the Family), Penal Code; however, there is no offense for violating bond conditions in sexual assault cases. Furthermore, current law requires information relating to protective orders to be entered into the Texas Crime Information Center (TCIC) while information relating to bond conditions is not required.

S.B. 893 prohibits a perpetrator from communication of any kind with a sexual assault or stalking victim, making the offense a Class A misdemeanor. In addition, S.B. 893 extends the protections afforded to victims of family violence to all victims, regardless of the crime, so that any violation of bond conditions is also considered a Class A misdemeanor. Lastly, in addition to the current entry requirement for protective orders, S.B. 893 requires the entry of bond conditions into TCIC for sexual assault, stalking, and family violence cases.

As proposed, S.B. 893 amends current law relating to certain conditions of, penalties for violating, or collection of information about protective orders issued in certain family violence, sexual assault or abuse, stalking, or trafficking cases.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas is modified in SECTION 3 (Section 411.042, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 7A, Code of Criminal Procedure, to read as follows:

CHAPTER 7A. PROTECTIVE ORDER FOR VICTIMS OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING

SECTION 2. Amends Article 7A.05(a), Code of Criminal Procedure, to authorize the court certain authority in a protective order issued under this chapter, including prohibiting the alleged offender from communicating in any manner with the applicant or any member of the applicant's family or household except through 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, and makes nonsubstantive changes.

SECTION 3. Amends Sections 411.042(b) and (g), Government Code, as follows:

(b) Requires the bureau of identification and records to:

(1)-(5) Makes no change to these subdivisions; and

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders, including pertinent information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault, or stalking case. Requires certain information in the law enforcement information system relating to an active protective order to include:

(A)-(E) Makes no change to these paragraphs;

(F) Makes a nonsubstantive change;

(G) the conditions of bond imposed on the person to whom the order is directed for the protection of a victim in any family violence, sexual assault, or stalking case; and

(H) Creates this paragraph from existing text and makes no further change.

Makes nonsubstantive changes.

(g) Authorizes the Department of Public Safety of the State of Texas to adopt certain reasonable rules under this section, including rules relating to active protective orders issued under Title 4 (Protective Orders and Family Violence), Family Code, or Chapter 7A or Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure, and reporting procedures that ensure that information relating to the issuance, modification, or removal of any conditions imposed through an active protective order and to the dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system. Makes a nonsubstantive change.

SECTION 4. Amends the heading to Section 25.07, Penal Code, to read as follows:

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE, SEXUAL ASSAULT, OR STALKING CASE.

SECTION 5. Amends Section 25.07(a), Penal Code, as follows:

(a) Provides that a person commits an offense if, in violation of a condition of bond, rather than in violation of a condition of bond set in a family violence 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, in a family violence, sexual assault, or stalking case, an order issued under Section 6.504 (Protective Orders), Family Code, Chapter 83 (Temporary Ex Parte Orders), Family Code, if the temporary ex parte order has been served on the person, or Chapter 85 (Issuance of Protective Order), Family Code, in a family violence case, or an order issued by another jurisdiction as provided by Chapter 88 (Uniform Interstate Enforcement of Protective Orders Act), Family Code, in a family violence case, the person knowingly or intentionally takes certain actions, including communicates in any manner with the protected individual or member of the family or household except through the protected individual's attorney or a person appointed by the court. Makes nonsubstantive changes.

SECTION 6. Amends Section 25.07(b), Penal Code, by adding Subdivisions (4) and (5) to define "sexual assault" and "stalking."

SECTION 7. Amends the heading in Section 38.112, Penal Code, to read as follows:

Sec. 38.112. VIOLATION OF PROTECTIVE ORDER ISSUED ON BASIS OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

SECTION 8. Amends Section 38.112(a), Penal Code, to provide that a person commits an offense if, in violation of an order issued under Chapter 7A, Code of Criminal Procedure, the person knowingly takes certain actions, including communicates 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, and to make nonsubstantive changes.

SECTION 9. Makes application of Sections 25.07 and 38.112, Penal Code, as amended by this Act, prospective.

SECTION 10. Effective date: September 1, 2013.