

BILL ANALYSIS

Senate Research Center

S.B. 147
By: Rodríguez et al.
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, two separate provisions of the Penal Code are used to prosecute violations of protective orders. Section 25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case) covers family violence protective orders, and Section 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Stalking, or Trafficking) covers sexual assault, stalking, and human trafficking protective orders. Section 25.07 provides more protections for victims and more severe penalties for violations, including the possibility of charging defendants with a felony for repeat violations under Section 25.072 (Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence Case), rather than separate misdemeanor charges for each violation.

S.B. 147 amends Section 25.07, Penal Code, to allow violations of sexual assault protective orders, stalking protective orders, and human trafficking protective orders issued under Chapter 7A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure, to be prosecuted under that statute, and amends Section 25.072 to allow repeated violations of such orders to be prosecuted under that statute. The bill also adds references to human trafficking to Section 411.042 (Bureau of Identification and Records), Government Code, to require the Bureau of Identification and Records of the Department of Public Safety of the State of Texas (DPS) to collect and maintain data concerning human trafficking protective orders. The bill also repeals Section 38.112, Penal Code, the current statute used to prosecute violations of sexual assault, stalking, and human trafficking protective orders.

By repealing Section 38.112 and providing that all violations of protective orders be prosecuted under Section 25.07, S.B. 147 strengthens protections for victims of sexual assault, stalking, and human trafficking and provides more enforcement tools to prosecutors. S.B. 147 also improves data concerning protective orders by requiring DPS to collect and maintain data on human trafficking protective orders.

As proposed, S.B. 147 amends current law relating to the violation of sexual assault, stalking, and human trafficking protective orders and relating to the DPS's duties to collect and maintain data concerning protective orders.

S.B. 147 amends current law relating to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, stalking, or trafficking case and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to Department of Public Safety of the State of Texas is modified in SECTION 6 (Section 411.042, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. 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 ABUSE, STALKING, OR TRAFFICKING CASE.

SECTION 2. 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 set in a family violence, sexual assault or abuse, stalking, or trafficking case and related to the safety of a victim or the safety of the community, an order issued under Chapter 7A (Protective Order for Victims of Sexual Assault or Abuse, Stalking, or Trafficking), Code of Criminal Procedure, an order issued under Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure, 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, or an order issued by another jurisdiction as provided by Chapter 88 (Uniform Interstate Enforcement of Protective Orders Act), Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 20A.02 (Trafficking of Persons), 22.011 (Sexual Assault), 22.021 (Aggravated Sexual Assault), or 42.072 (Stalking);

(2)-(4) Makes no change to these subdivisions;

(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 condition of bond.

SECTION 3. Amends Section 25.07(b), Penal Code, by adding Subdivision (7) to define "trafficking."

SECTION 4. Amends the heading to Section 25.072, Penal Code, to read as follows:

Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN FAMILY VIOLENCE, SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE.

SECTION 5. Amends Articles 14.03(a) and (b), Code of Criminal Procedure, as follows:

(a) Deletes existing text authorizing any peace officer to arrest, without warrant, persons who the peace officer has probable cause to believe have committed an offense defined by Section 38.112, Penal Code (Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Talking, or Trafficking) if the offense is not committed in the presence of the peace officer.

(b) Deletes existing text requiring a peace officer to arrest, without a warrant, a person the peace officer has probable cause to believe has committed an offense under Section 38.112, Penal Code, if the offense is committed in the presence of the peace officer.

SECTION 6. Amends Sections 411.042(b) and (g), Government Code, as follows:

(b) Requires the bureau of identification and records to fulfill certain obligations, including collecting 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 abuse, stalking, or trafficking case. Requires that information in the law enforcement information system relating to an active protective order include the conditions of bond imposed on the person to whom the order is directed, if any, for the protection of a victim in any family violence, sexual assault or abuse, stalking, or trafficking case. Makes nonsubstantive changes.

(g) Authorizes the Department of Public Safety of the State of Texas to adopt reasonable rules under this section relating to certain procedures and conditions, including active conditions of bond imposed on a defendant for the protection of a victim in any family violence, sexual assault or abuse, stalking, or trafficking case, and reporting procedures that ensure that information relating to the issuance, modification, or removal of the conditions of bond is reported, at the time of the issuance, modification, or removal, to the victim or, if the victim is deceased, a close relative of the victim, and the local law enforcement agency for entry by the local law enforcement agency in the state's law enforcement information system. Makes a nonsubstantive change.

SECTION 7. Repealer: Section 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault or Abuse, Stalking, or Trafficking), Penal Code.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2015.