

SUBJECT: Repeated violation of court order, bond in family violence cases

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody, Schaefer, Toth
0 nays
1 absent — Hughes

WITNESSES: For — Patricia Baca, 34th Judicial District of Texas; Aaron Setliff, The Texas Council on Family Violence; Irma Duran; (*Registered, but did not testify*: Lon Craft, Texas Municipal Police Association; Melissa Davis, National Association of Social Workers - Texas Chapter; Chris Kaiser, Texas Association Against Sexual Assault; Diana Martinez, TexProtects, The Texas Association for the Protection of Children; Emily Rickers, Alliance for Texas Families; Maria Summons, Aid to Victims of Domestic Abuse)
Against — None
On — (*Registered, but did not testify*: Alfred Nunez, Texas Department of Public Safety)

BACKGROUND: It is an offense under Penal Code, sec. 25.07 to violate certain court orders or bond conditions in family violence cases by committing family violence, stalking, or other specified acts. A first offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Second or subsequent violations or violating an order or bond by committing assault or stalking is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

DIGEST: HB 2172 would create the criminal offense of repeated violation of court orders or bond conditions in family violence cases. It would be a third-degree felony if, during a period that was 12 months or less, a person violated an order or bond under Penal Code, sec. 25.07 two or more times.
In a jury trial, the jury would not be required to agree unanimously on the

specific conduct that constituted the violation of the order bond or the exact date of the conduct. The jury would be required to agree unanimously that the person violated the court order or bond two or more times in the 12-month-or-less period.

A defendant could not be convicted in the same criminal action of another offense for the same conduct used to convict under the offense created by the bill, unless the other offense:

- was charged in the alternative;
- occurred outside the 12-month-or-less window of alleged crime under the bill; or
- was considered by the judge or jury to be a lesser included offense of the offense created by the bill.

A defendant could not be charged with more than one count of the new offense if all the conduct alleged was alleged to have violated a single court order or bond.

Two convictions for this offense or one conviction for this offense and one conviction for violating certain court orders or bonds would make the Penal Code sec. 25.07 offense of violating certain court order or bonds a third-degree felony.

Venue for prosecuting these offenses would be in the county in which the order was issued or in the county where the offense was committed.

The bill would include the offense among those offenses for which a previous conviction or placement on deferred adjudication makes persons ineligible to ask a court for an order of non-disclosure of criminal history record information. The bill also would add the new offense to the list of offenses for which deferred adjudications are not exempted from being considered a conviction when someone is applying for a concealed handgun license.

It also would add the new offense to the list of offenses for which the Texas Board of Nursing is required to suspend or not issue a nurse's license.

The bill would include cases for the new offense among those that the County Court at Law No. 13 in Bexar County and the County Criminal Court No. 5 of Tarrant would have to give preference.

**SUPPORTERS
SAY:**

HB 2172 would add more teeth to court orders and bonds issued in family violence cases, which is necessary at a time when domestic violence is a serious problem. Current law makes violations of court orders or bonds in family violence cases a class A misdemeanor, but not until a third offense can the offender be punished with a third-degree felony. Adjudications of class A misdemeanors can take up to a year or more, and during that time some offenders harm or harass their victims in violation of court orders or bonds. Then, more time elapses until the adjudications for that offense.

HB 2172 would address this by making the repeated violations of court orders or bonds in family violence cases a separate third-degree felony offense. This would allow the violations themselves to result in a higher penalty rather than having to accumulate several misdemeanor convictions. This would make it harder for family violence offenders to violate court orders and get away with it.

Eliminating the requirement for unanimity of the jury relating to the specific conduct and the exact date it occurred would be consistent with other similar offenses which involve continuous behavior over a period of time. The jury still would have to unanimously agree that the person violated the court order or bond two or more times in the 12-month-or-less time period.

**OPPONENTS
SAY:**

HB 2172 is unnecessary because it already is a third-degree felony offense to violate a court order or bonds issued in family violence cases two or more times. In addition, judges already can deny bail to keep offenders in jail who repeatedly violate orders or bond conditions in family violence cases.

The proposed new offense that would eliminate the requirement for jury unanimity when deciding on the specific conduct that constituted an offense and the exact date it occurred would not be appropriate because adults should be able to provide reliable information. Difficulty in administering this law could result because parties in family violence cases sometimes break up and get back together again, even when the order or bond is in effect.