

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1717  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Stalking is a crime in which a person engages in a malicious pattern of intimidating behavior towards a victim. The Texas Council on Family Violence (TCFV) reports that approximately 80 percent of stalking victims know their perpetrators. What's more, stalking is a known lethality indicator for victims of family violence, with approximately 85 percent of female victims of attempted intimate-partner homicide by male partners being stalked in the 12 months prior to the attack. The ever-expanding reach of technology allows abusive partners to more easily track, monitor, and stalk their victims. Accordingly, reporting stalking is the most common interaction between a victim and the criminal legal system prior to attempted or completed intimate-partner homicide.

Currently, the stalking statute lacks clarity in cases where the stalker is a current, or former, intimate partner with a history of domestic abuse. Even the most mundane actions such as dropping off groceries at the victim's home, can indicate a direct threat intended to scare the victim. What's more, prosecutors believe the existing law is cumbersome and difficult to use as currently written, leaving many victims of family violence without meaningful protection under current stalking law.

S.B. 1717 would expand the description of how a victim perceives the stalker's actions beyond the harassment standard to include feeling terrified or intimidated. The bill would apply the reasonable-person standard narrowly to a reasonable person under the same circumstances as the victim. What's more, it would allow a prosecutor to present evidence regarding any existing or previous relationship between the stalker and the victim. Incorporating these changes would allow for a more effective application of the Texas stalking statute, which in turn would ensure victims can seek protection and justice before the stalking escalates to homicide.

As proposed, S.B. 1717 amends current law relating to the prosecution of the offense of stalking.

### **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 Article 38.46(a), Code of Criminal Procedure, as follows:

(a) Authorizes each party, in a prosecution for stalking, to offer testimony as to all relevant facts and circumstances that would aid the trier of fact in determining whether the actor's conduct would cause a reasonable person in circumstances similar to the circumstances of the alleged victim to experience a fear described by certain statutes, including:

(1) creates this subdivision from existing text; and

(2) if a prosecution for stalking involves family violence, as defined by Section 71.004 (Family Violence), Family Code, and the actor's previous conduct

constituting family violence was known to the victim, the actor's previous conduct constituting family violence.

SECTION 2. Amends Section 42.072(a), Penal Code, as follows:

(a) Provides that a person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed at a specific other person, rather than directed specifically at another person, knowingly engages in conduct that:

(1) constitutes an offense under Section 42.07 (Harassment), or that the actor knows or reasonably should know the other person will regard as threatening:

(A) creates this paragraph from existing text; or

(B) that an offense will be committed against a member of the other person's family or household, an individual with whom the other person has a dating relationship, or the other person's property;

(2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship:

(A) to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship, or the other person's property; or

(B) to feel certain ways, including terrified and intimidated; and

(3) would cause a reasonable person under circumstances similar to the circumstances of the other person to:

(A) fear bodily injury or death for the person, rather than for himself or herself;

(B) fear that an offense will be committed against, rather than fear bodily injury or death for, a member of the person's family or household or an individual with whom the person has a dating relationship;

(C) fear that an offense will be committed against the person's property; or

(D) feel certain ways, including terrified and intimidated.

Makes nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.