

SENATE AMENDMENTS

2nd Printing

By: Blanco, Alvarado, Fallon

H.B. No. 2645

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the violation of certain court orders or conditions of
3 bond in a family violence, sexual assault or abuse, or stalking
4 case; creating an offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 25.07(a), Penal Code, is amended to read
7 as follows:

8 (a) A person commits an offense if, in violation of a
9 condition of bond set in a family violence, sexual assault or abuse,
10 or stalking case and related to the safety of a victim or the safety
11 of the community, an order issued under Article 17.292, Code of
12 Criminal Procedure, an order issued under Section 6.504, Family
13 Code, Chapter 83, Family Code, if the temporary ex parte order has
14 been served on the person, or Chapter 85, Family Code, or an order
15 issued by another jurisdiction as provided by Chapter 88, Family
16 Code, the person knowingly or intentionally:

17 (1) commits family violence or an act in furtherance
18 of an offense under Section 22.011, 22.021, or 42.072;

19 (2) communicates:

20 (A) directly with a protected individual or a
21 member of the family or household in a threatening or harassing
22 manner;

23 (B) a threat through any person to a protected
24 individual or a member of the family or household; or

1 (C) in any manner with the protected individual
2 or a member of the family or household except through the person's
3 attorney or a person appointed by the court, if the violation is of
4 an order described by this subsection and the order prohibits any
5 communication with a protected individual or a member of the family
6 or household;

7 (3) goes to or near any of the following places as
8 specifically described in the order or condition of bond:

9 (A) the residence or place of employment or
10 business of a protected individual or a member of the family or
11 household; or

12 (B) any child care facility, residence, or school
13 where a child protected by the order or condition of bond normally
14 resides or attends;

15 (4) possesses a firearm; ~~or~~

16 (5) harms, threatens, or interferes with the care,
17 custody, or control of a pet, companion animal, or assistance
18 animal that is possessed by a person protected by the order; or

19 (6) removes or attempts to remove a global positioning
20 monitoring system.

21 SECTION 2. Section 25.07(b), Penal Code, is amended by
22 adding Subdivision (2-a) to read as follows:

23 (2-a) "Global positioning monitoring system" has the
24 meaning assigned by Article 17.49, Code of Criminal Procedure.

25 SECTION 3. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 4. This Act takes effect September 1, 2015.

ADOPTED

MAY 26 2015

Atalay Shaw
Secretary of the Senate

By: *J. J. Acirgi*

H.B. No. 2045

Substitute the following for H.B. No. 2045:

By: *Joe Whitman*

C.S. H. B. No. 2045

A BILL TO BE ENTITLED

AN ACT

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relating to the prosecution of certain offenses involving family violence and to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.371 to read as follows:

Art. 38.371. EVIDENCE IN PROSECUTIONS OF CERTAIN OFFENSES INVOLVING FAMILY VIOLENCE. (a) This article applies to a proceeding in the prosecution of a defendant for an offense, or for an attempt or conspiracy to commit an offense, that is committed under:

(1) Section 22.01 or 22.02, Penal Code, against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(2) Section 25.07 or 25.072, Penal Code, if the offense is based on a violation of an order or a condition of bond in a case involving family violence.

(b) In the prosecution of an offense described by Subsection (a), subject to the Texas Rules of Evidence or other applicable law, each party may offer testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor committed the offense described by

1 Subsection (a), including testimony or evidence regarding the
2 nature of the relationship between the actor and the alleged
3 victim.

4 SECTION 2. Section 25.07(a), Penal Code, is amended to read
5 as follows:

6 (a) A person commits an offense if, in violation of a
7 condition of bond set in a family violence, sexual assault or abuse,
8 or stalking case and related to the safety of a victim or the safety
9 of the community, an order issued under Article 17.292, Code of
10 Criminal Procedure, an order issued under Section 6.504, Family
11 Code, Chapter 83, Family Code, if the temporary ex parte order has
12 been served on the person, or Chapter 85, Family Code, or an order
13 issued by another jurisdiction as provided by Chapter 88, Family
14 Code, the person knowingly or intentionally:

15 (1) commits family violence or an act in furtherance
16 of an offense under Section 22.011, 22.021, or 42.072;

17 (2) communicates:

18 (A) directly with a protected individual or a
19 member of the family or household in a threatening or harassing
20 manner;

21 (B) a threat through any person to a protected
22 individual or a member of the family or household; or

23 (C) in any manner with the protected individual
24 or a member of the family or household except through the person's
25 attorney or a person appointed by the court, if the violation is of
26 an order described by this subsection and the order prohibits any
27 communication with a protected individual or a member of the family

1 or household;

2 (3) goes to or near any of the following places as
3 specifically described in the order or condition of bond:

4 (A) the residence or place of employment or
5 business of a protected individual or a member of the family or
6 household; or

7 (B) any child care facility, residence, or school
8 where a child protected by the order or condition of bond normally
9 resides or attends;

10 (4) possesses a firearm; ~~[or]~~

11 (5) harms, threatens, or interferes with the care,
12 custody, or control of a pet, companion animal, or assistance
13 animal that is possessed by a person protected by the order; or

14 (6) removes, attempts to remove, or otherwise tampers
15 with the normal functioning of a global positioning monitoring
16 system.

17 SECTION 3. Section 25.07(b), Penal Code, is amended by
18 adding Subdivision (2-a) to read as follows:

19 (2-a) "Global positioning monitoring system" has the
20 meaning assigned by Article 17.49, Code of Criminal Procedure.

21 SECTION 4. (a) The change in law made by this Act in adding
22 Article 38.371, Code of Criminal Procedure, applies to the
23 admissibility of evidence in a criminal proceeding that commences
24 on or after the effective date of this Act. The admissibility of
25 evidence in a criminal proceeding that commences before the
26 effective date of this Act is governed by the law in effect on the
27 date the proceeding commenced, and the former law is continued in

1 effect for that purpose.

2 (b) The change in law made by this Act in amending Section
3 25.07, Penal Code, applies only to an offense committed on or after
4 the effective date of this Act. An offense committed before the
5 effective date of this Act is governed by the law in effect on the
6 date the offense was committed, and the former law is continued in
7 effect for that purpose. For purposes of this subsection, an
8 offense was committed before the effective date of this Act if any
9 element of the offense occurred before that date.

10 SECTION 5. This Act takes effect September 1, 2015.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 27, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (Relating to the prosecution of certain offenses involving family violence and to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to include removing, attempting to remove, or tampering with a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. The bill would permit each party in a criminal case involving assault against a family member or other offenses to offer testimony or other evidence regarding the nature of the relationship between the defendant and the alleged victim. An offense under this section is punishable as a Class A misdemeanor or a third degree felony depending on the circumstances of the offense. This analysis assumes the provisions of the bill would not result in a significant impact on state correctional agencies.

The Office of Court Administration reported no significant fiscal impact to the state court system is anticipated.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, SD, EK, LM, ESi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (relating to the prosecution of certain offenses involving family violence and to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case.), **Committee Report 2nd House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, KJo, SD, EK, LM, ESi

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 21, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (Relating to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case; creating an offense.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to include removing or attempting to remove a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. An offense under this section is punishable as a Class A misdemeanor or a third degree felony depending on the circumstances of the offense. This analysis assumes the provisions of the bill would not result in a significant impact on state correctional agencies.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies:

LBB Staff: UP, KJo, SD, EK, LM, ESi

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 14, 2015

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (Relating to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case; creating an offense.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to include removing or attempting to remove a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. An offense under this section is punishable as a Class A misdemeanor or a third degree felony depending on the circumstances of the offense. This analysis assumes the provisions of the bill would not result in a significant impact on state correctional agencies.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies:

LBB Staff: UP, KJo, SD, EK, LM, ESi

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (relating to the prosecution of certain offenses involving family violence and to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to include removing, attempting to remove, or tampering with a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. In certain circumstances, this offense is punishable as a third degree felony.

A third degree felony is punishable by confinement in prison for a term of for two to ten years and an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty can be applied is expected to increase correctional supervision and/or incarceration populations and thereby increase demands on county and/or state correctional resources. In fiscal year 2014, 324 people were arrested, 71 were placed under felony community supervision, and 73 were admitted into state correctional facilities for the felony offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. Data are not available to indicate how often persons under certain court orders or conditions of bond remove, attempt to remove, or tamper with GPS systems. However, this analysis assumes the bill's provisions would not result in a significant impact on state correctional populations, programs, or workloads.

Source Agencies:

LBB Staff: UP, LM, ESi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 21, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (Relating to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case; creating an offense.), **As Engrossed**

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Source Agencies:

LBB Staff: UP, LM, ESi

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

April 15, 2015

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2645 by Blanco (Relating to the violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case; creating an offense.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to include removing or attempting to remove a global positioning monitoring system (GPS) to the list of behaviors subject to prosecution under the offense of violation of certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case. In certain circumstances, this offense is punishable as a third degree felony.

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Source Agencies:

LBB Staff: UP, LM, ESi