

By: Lucio III, Hartnett

H.B. No. 1721

A BILL TO BE ENTITLED

AN ACT

relating to protective orders for certain victims of stalking or sexual assault.

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

SECTION 1. Chapter 6, Code of Criminal Procedure, is amended by adding Article 6.09 to read as follows:

Art. 6.09. STALKING PROTECTIVE ORDER. (a) At any proceeding related to an offense under Section 42.072, Penal Code, in which the defendant appears before the court, a person may request the court to render a protective order under Title 4, Family Code, for the protection of the person. The request is made by filing "An Application for a Protective Order" in the same manner as an application for a protective order under Title 4, Family Code.

(b) The court shall render a protective order in the manner provided by Title 4, Family Code, if, in lieu of the finding that family violence occurred and is likely to occur in the future as required by Section 85.001, Family Code, the court finds that probable cause exists to believe that an offense under Section 42.072, Penal Code, occurred and that the nature of the scheme or course of conduct engaged in by the defendant in the commission of the offense indicates that the defendant is likely to engage in the future in conduct prohibited by Section 42.072(a)(1), (2), or (3), Penal Code.

(c) The procedure for the enforcement of a protective order

1 under Title 4, Family Code, applies to the fullest extent
2 practicable to the enforcement of a protective order under this
3 article, including provisions relating to findings, contents,
4 duration, warning, delivery, law enforcement duties, and
5 modification.

6 SECTION 2. Chapter 7A, Code of Criminal Procedure, is
7 amended by adding Article 7A.035 to read as follows:

8 Art. 7A.035. HEARSAY STATEMENT OF CHILD VICTIM. In a
9 hearing on an application for a protective order under this
10 chapter, a statement that is made by a child younger than 14 years
11 of age who is the victim of an offense under Section 21.02, 21.11,
12 22.011, or 22.021, Penal Code, and that describes the offense
13 committed against the child is admissible as evidence in the same
14 manner that a child's statement regarding alleged abuse against the
15 child is admissible under Section 104.006, Family Code, in a suit
16 affecting the parent-child relationship.

17 SECTION 3. (a) Article 6.09, Code of Criminal Procedure,
18 as added by this Act, applies to the commission of an offense under
19 Section 42.072, Penal Code, without regard to whether the offense
20 was committed before, on, or after the effective date of this Act.

21 (b) Article 7A.035, Code of Criminal Procedure, as added by
22 this Act, applies only to a hearing on an application for a
23 protective order that is commenced on or after the effective date of
24 this Act. A hearing on an application for a protective order that
25 is commenced before the effective date of this Act is governed by
26 the law in effect on the date the hearing was commenced, and the
27 former law is continued in effect for that purpose.

1 SECTION 4. This Act takes effect September 1, 2011.