

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 1293  
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Criminal Justice  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Due to the sensitive nature of certain sexual, family violence, or human trafficking offenses, there is a way to protect a victim's identity in order to ensure the victim's safety. Obtaining a pseudonym for use in certain public records is currently an option for a victim of such offenses who wishes to remain anonymous. Interested parties assert that this protection should also be available to a victim of stalking because a stalking victim's safety may be similarly in jeopardy if the victim's identity is prematurely made public. H.B. 1293 seeks to address this concern.

H.B. 1293 amends current law relating to the confidentiality of identifying information of victims of stalking and creates a criminal offense.

### **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 Title 1, Code of Criminal Procedure, by adding Chapter 57A, as follows:

#### **CHAPTER 57A. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF VICTIMS OF STALKING**

Art. 57A.01. DEFINITIONS. Defines "name," "pseudonym," "public servant," and "victim" in this chapter.

Art. 57A.02. CONFIDENTIALITY OF FILES AND RECORDS. (a) Requires the office of the attorney general (OAG) to develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a victim.

(b) Authorizes a victim to choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. Requires a victim who elects to use a pseudonym as provided by this article to complete a pseudonym form developed under this article and return the form to the law enforcement agency investigating the offense.

(c) Prohibits a victim who completes and returns a pseudonym form to the law enforcement agency investigating the offense from being required to disclose the victim's name, address, and telephone number in connection with the investigation or prosecution of the offense.

(d) Provides that a completed and returned pseudonym form is confidential and prohibits it from being disclosed to any person other than the victim identified by the pseudonym form, a defendant in the case, or the defendant's attorney, except on an order of a court of competent jurisdiction. Provides that the court finding required by Subsection (g) is not required to disclose the confidential pseudonym

form to the victim identified by the pseudonym form, the defendant in the case, or the defendant's attorney.

(e) Requires the law enforcement agency receiving a form, if a victim completes and returns a pseudonym form to a law enforcement agency under this article, to:

(1) remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the agency's possession;

(2) notify the attorney for the state of the pseudonym and that the victim has elected to be designated by the pseudonym;

(3) provide to the victim a copy of the completed pseudonym form showing that the form was returned to the law enforcement agency; and

(4) maintain the form in a manner that protects the confidentiality of the information contained on the form.

(f) Requires an attorney for the state who receives notice that a victim has elected to be designated by a pseudonym to ensure that the victim is designated by the pseudonym in all legal proceedings concerning the offense.

(g) Authorizes a court of competent jurisdiction to order the disclosure of a victim's name, address, and telephone number only if the court finds that:

(1) the information is essential in the trial of the defendant for the offense;

(2) the identity of the victim is in issue; or

(3) the disclosure is in the best interest of the victim.

(h) Prohibits a public servant or other person who has access to or obtains the name, address, telephone number, or other identifying information of a victim younger than 17 years of age, except as required or permitted by other law or by court order, from releasing or disclosing the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the case. Provides that this subsection does not apply to the release or disclosure of a victim's identifying information by:

(1) the victim; or

(2) the victim's parent, conservator, or guardian, unless the victim's parent, conservator, or guardian allegedly committed the offense described by Article 57A.01(4).

Art. 57A.03. OFFENSE. (a) Provides that a public servant with access to the name, address, or telephone number of a victim 17 years of age or older who has chosen a pseudonym under this chapter commits an offense if the public servant knowingly discloses the name, address, or telephone number of the victim to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or the person specified in the order of a court of competent jurisdiction.

(b) Provides that, unless the disclosure is required or permitted by other law, a public servant or other person commits an offense if the person:

(1) has access to or obtains the name, address, or telephone number of a victim younger than 17 years of age; and

(2) knowingly discloses the name, address, or telephone number of the victim to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order of a court of competent jurisdiction.

(c) Provides that it is an affirmative defense to prosecution under Subsection (b) that the actor is:

(1) the victim; or

(2) the victim's parent, conservator, or guardian, unless the victim's parent, conservator, or guardian allegedly committed the offense described by Article 57A.01(4).

(d) Provides that an offense under this article is a Class C misdemeanor.

Art. 57A.04. EFFECT ON OTHER LAW. Provides that this chapter does not affect:

(1) a victim's responsibility to provide documentation of stalking under Section 92.0161 (Right to Vacate and Avoid Liability Following Certain Sex Offenses or Stalking), Property Code; or

(2) a person's power or duty to disclose the documented information as provided by Subsection (j) (prohibiting a person who receives information under certain sections from disclosing the information to any other person except for a legitimate or customary business purpose or as otherwise required by law) of that section.

SECTION 2. Amends Section 92.0161(c-1), Property Code, as follows:

(c-1) Requires the tenant, if the tenant is a victim or a parent or guardian of a victim of stalking under Section 42.072 (Stalking), Penal Code, that takes place during the preceding six-month period on the premises or at any dwelling on the premises, to provide to the landlord or the landlord's agent a copy of:

(1) Makes no change to this subdivision;

(2) documentation of the stalking from a provider of services described by Subsection (c)(1), (2), or (3) (relating to documentation provided to the landlord or the landlord's agent if the tenant is a victim or a parent or guardian of a victim of certain offenses related to sexual assault that took place at any dwelling on the premises) and:

(A) a law enforcement incident report or if a law enforcement incident report is unavailable, another record maintained in the ordinary course of business by a law enforcement agency; and

(B) if the report or record described by Paragraph (A) identifies the victim by means of a pseudonym, as defined by Article 57A.01, Code of Criminal Procedure, a copy of a pseudonym form completed and returned under Article 57A.02 of that code.

SECTION 3. Requires the OAG, not later than October 1, 2015, to develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a victim as required by Article 57A.02, Code of Criminal Procedure, as added by this Act.

SECTION 4. Effective date: September 1, 2015.