

By: Zaffirini

S.B. No. 48

A BILL TO BE ENTITLED

AN ACT

1
2 relating to standardized forms and materials for the issuance of
3 protective orders, magistrate's orders for emergency protection,
4 and temporary ex parte orders.

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

6 SECTION 1. Article 7B.001, Code of Criminal Procedure, is
7 amended by adding Subsection (c) to read as follows:

8 (c) A person filing an application under this article shall
9 use the protective order application form created by the Office of
10 Court Administration of the Texas Judicial System under Section
11 72.039, Government Code, that is available on the office's Internet
12 website.

13 SECTION 2. Subchapter A, Chapter 7B, Code of Criminal
14 Procedure, is amended by adding Article 7B.0021 to read as follows:

15 Art. 7B.0021. STANDARD TEMPORARY EX PARTE ORDER FORM. (a)
16 The court shall use the standardized temporary ex parte order form
17 created by the Office of Court Administration of the Texas Judicial
18 System under Section 72.039, Government Code, to issue a temporary
19 ex parte order under Article 7B.002.

20 (b) A court's failure to use the standardized temporary ex
21 parte order form as required under Subsection (a) does not affect
22 the validity or enforceability of the temporary ex parte order
23 issued.

24 SECTION 3. Article 7B.003, Code of Criminal Procedure, is

1 amended by adding Subsections (d) and (e) to read as follows:

2 (d) The court shall use the standardized protective order
3 form created by the Office of Court Administration of the Texas
4 Judicial System under Section 72.039, Government Code, to issue a
5 protective order under this article.

6 (e) A court's failure to use the standardized protective
7 order form as required under Subsection (d) does not affect the
8 validity or enforceability of the protective order issued.

9 SECTION 4. Article 17.292, Code of Criminal Procedure, is
10 amended by adding Subsections (d-1) and (d-2) to read as follows:

11 (d-1) The magistrate shall use the standardized order for
12 emergency protection form created by the Office of Court
13 Administration of the Texas Judicial System under Section 72.039,
14 Government Code, to issue an order for emergency protection under
15 this article.

16 (d-2) A magistrate's failure to use the standardized order
17 for emergency protection form as required under Subsection (d-1)
18 does not affect the validity or enforceability of the order for
19 emergency protection issued.

20 SECTION 5. Section 82.004, Family Code, is amended to read
21 as follows:

22 Sec. 82.004. FORM AND CONTENT [~~CONTENTS~~] OF APPLICATION. A
23 person filing an application under this chapter shall use the
24 protective order application form created by the Office of Court
25 Administration of the Texas Judicial System under Section 72.039,
26 Government Code, that is available on the office's Internet
27 website, and shall include in the application [~~An application must~~

1 state]:

2 (1) the name and county of residence of each
3 applicant;

4 (2) the name and county of residence of each
5 individual alleged to have committed family violence;

6 (3) the relationships between the applicants and the
7 individual alleged to have committed family violence;

8 (4) a request for one or more protective orders; and

9 (5) whether an applicant is receiving services from
10 the Title IV-D agency in connection with a child support case and,
11 if known, the agency case number for each open case.

12 SECTION 6. Chapter 83, Family Code, is amended by adding
13 Section 83.007 to read as follows:

14 Sec. 83.007. STANDARD TEMPORARY EX PARTE ORDER FORM. (a)
15 The court shall use the standardized temporary ex parte order form
16 created by the Office of Court Administration of the Texas Judicial
17 System under Section 72.039, Government Code, to issue a temporary
18 ex parte order under this chapter.

19 (b) A court's failure to use the standardized temporary ex
20 parte order form as required under Subsection (a) does not affect
21 the validity or enforceability of the temporary ex parte order
22 issued.

23 SECTION 7. Subchapter B, Chapter 85, Family Code, is
24 amended by adding Section 85.0221 to read as follows:

25 Sec. 85.0221. STANDARD PROTECTIVE ORDER FORM. (a) The
26 court shall use the standardized protective order form created by
27 the Office of Court Administration of the Texas Judicial System

1 under Section 72.039, Government Code, to issue a protective order
2 under this chapter.

3 (b) A court's failure to use the standardized protective
4 order form as required under Subsection (a) does not affect the
5 validity or enforceability of the protective order issued.

6 SECTION 8. Subchapter C, Chapter 72, Government Code, is
7 amended by adding Section 72.039 to read as follows:

8 Sec. 72.039. PROTECTIVE ORDER APPLICATIONS, FORMS, AND
9 MATERIALS. (a) The office shall develop and make available on the
10 office's Internet website standardized forms and other materials
11 necessary to apply for, issue, deny, revise, rescind, serve, and
12 enforce any of the following:

13 (1) a protective order under Title 4, Family Code, or
14 Subchapter A, Chapter 7B, Code of Criminal Procedure;

15 (2) a magistrate's order for emergency protection
16 under Article 17.292, Code of Criminal Procedure; or

17 (3) a temporary ex parte order under Chapter 83,
18 Family Code, or Article 7B.002, Code of Criminal Procedure.

19 (b) Each standardized form developed under Subsection (a)
20 to be used by a magistrate or court issuing an order must include:

21 (1) the prohibitions and requirements imposed on the
22 respondent;

23 (2) the duration of the order;

24 (3) the potential consequences of violating the order;

25 and

26 (4) any other admonishments or warnings required by
27 law.

1 (c) The materials developed under Subsection (a) must
2 include a procedure to ensure that a copy of the order is
3 transmitted to all required parties and all relevant information
4 required by Section 411.042(b)(6) is entered into the statewide law
5 enforcement information system maintained by the Department of
6 Public Safety under Section 411.042 and any other applicable
7 databases.

8 (d) In developing the required applications, forms, and
9 materials, the office shall:

10 (1) consult with individuals, organizations, and
11 state agencies that have knowledge and experience in the issues of
12 protective orders, including:

13 (A) the Texas Council on Family Violence;

14 (B) the Department of Public Safety;

15 (C) nonprofit organizations that advocate for
16 the survivors of sexual assault or family violence;

17 (D) individuals, organizations, and state
18 agencies that provide training to judges, prosecutors, and law
19 enforcement officers;

20 (E) the judges or justices of courts of varying
21 jurisdictions;

22 (F) law enforcement agencies;

23 (G) prosecutors; and

24 (H) an organization that receives federal
25 funding under the legal assistance for victims grant program and
26 that has expertise in issues related to family violence, sexual
27 assault, or stalking; and

1 (2) give consideration to promoting uniformity of law
2 among the states that enact the Uniform Interstate Enforcement of
3 Domestic Violence Protection Orders Act.

4 SECTION 9. As soon as practicable after the effective date
5 of this Act, but not later than June 1, 2024, the Office of Court
6 Administration of the Texas Judicial System shall create and make
7 available on the office's Internet website all forms and materials
8 required by Section 72.039, Government Code, as added by this Act.
9 If the office completes the forms and materials required by Section
10 72.039, Government Code, as added by this Act, before June 1, 2024,
11 the office shall notify each court clerk, judge, magistrate, and
12 prosecution agency in the state of the availability of the forms and
13 materials.

14 SECTION 10. Article 7B.001, Code of Criminal Procedure, as
15 amended by this Act, and Section 82.004, Family Code, as amended by
16 this Act, apply only to an application for a protective order that
17 is filed on or after June 1, 2024. An application for a protective
18 order filed before June 1, 2024, is governed by the law in effect on
19 the date the application is filed, and the former law is continued
20 in effect for that purpose.

21 SECTION 11. Articles 7B.003 and 17.292, Code of Criminal
22 Procedure, as amended by this Act, Article 7B.0021, Code of
23 Criminal Procedure, as added by this Act, and Sections 83.007 and
24 85.0221, Family Code, as added by this Act, apply only to a
25 protective order, magistrate's order for emergency protection, or
26 temporary ex parte order that is issued on or after June 1, 2024. An
27 order issued before June 1, 2024, is governed by the law in effect

1 on the date the order is issued, and the former law is continued in
2 effect for that purpose.

3 SECTION 12. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2023.