

By: Gonzalez

H.B. No. 1817

A BILL TO BE ENTITLED

AN ACT

relating to protective orders.

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

SECTION 1. Chapter 84, Family Code, is amended by adding Section 84.006 to read as follows:

Sec. 84.006. DISCOVERY PROHIBITED. The court shall not permit discovery for a hearing on an application for a protective order filed under this title, regardless of whether the hearing under this chapter is continued or postponed.

SECTION 2. Section 85.005(a), Family Code, is amended to read as follows:

(a) To facilitate settlement, the parties to a proceeding may agree in writing to the terms of a protective order as provided by Section 85.021. An agreement under this subsection is subject to the approval of the court. A court shall render an agreed protective order under this subsection without making a finding of family violence.

SECTION 3. Section 85.022(b), Family Code, is amended to read as follows:

(b) In a protective order, the court may prohibit the person found to have committed family violence from:

(1) committing family violence;

(2) communicating:

(A) directly with a person protected by an order,

1 in a threatening or harassing manner;

2 (B) a threat through any person to a person
3 protected by an order or a member of the family or household of a
4 person protected by an order; and

5 (C) if the court finds good cause, in any manner
6 with a person protected by an order or a member of the family or
7 household of a person protected by an order, except through the
8 party's attorney or a person appointed by the court;

9 (3) going to or near the residence or place of
10 employment or business of a person protected by an order or a member
11 of the family or household of a person protected by an order.

12 (4) going to or near the residence, child-care
13 facility, or school a child protected under the order normally
14 attends or in which the child normally resides;

15 (5) engaging in conduct directed specifically toward a
16 person who is a person protected by an order or a member of the
17 family or household of a person protected by an order, including
18 following the person, that is reasonably likely to harass, annoy,
19 alarm, abuse, torment, or embarrass the person; and

20 (6) possessing a firearm, unless the person is a peace
21 officer, as defined by Section 1.07, Penal Code, actively engaged
22 in employment as a sworn, full-time paid employee of a state agency
23 or political subdivision.

24 SECTION 4. Section 85.024(a), Family Code, is amended to
25 read as follows:

26 (a) A person found to have engaged in family violence who is
27 ordered to attend a program or counseling under Section

1 85.022(a)(1), (2), or (3) shall file with the court an affidavit
2 before the 60th day after the date the order was rendered stating
3 either that the person has begun the program or counseling or that a
4 program or counseling is not available within a reasonable distance
5 from the person's residence. A person who files an affidavit that
6 the person has begun the program or counseling shall file with the
7 court before the date the protective order expires a statement that
8 the person completed the program or counseling not later than the
9 30th day before the expiration date of the protective order or the
10 30th day before the first anniversary of the date the protective
11 order was issued, whichever date is earlier. An affidavit under
12 this subsection must be accompanied by a letter, notice, or
13 certificate from the program or counselor that verifies the
14 person's completion of the program or counseling. A person who
15 fails to comply with this subsection may be punished for contempt of
16 court under Section 21.002, Government Code, on the motion of a
17 party or on the court's own motion.

18 SECTION 5. Section 201.005(a), Family Code, is amended to
19 read as follows:

20 (a) Except as provided by this section, a judge of a court
21 may refer to an associate judge any aspect of a suit over which the
22 court has jurisdiction under this title or Title 1, [~~or 4~~] including
23 any matter ancillary to the suit.

24 SECTION 6. Chapter 85, Family Code, is amended by adding
25 Section 85.010 to read as follows:

26 Sec. 85.010. DE NOVO HEARING PROHIBITED. A respondent who
27 has been issued a protective order by a court subject to Section

1 85.021 shall not have the right to a de novo hearing to appeal a
2 protective order issued under this title.

3 SECTION 7. The changes in law made by this Act apply to an
4 application for a protective order filed on or after the effective
5 date of this Act. An application for a protective order filed
6 before the effective date of this Act is covered by the law in
7 effect on the date the application was filed, and the former law is
8 continued in effect for that purpose.

9 SECTION 8. This Act takes effect September 1, 2011.