

BILL ANALYSIS

S.B. 815
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Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a judge often issues a temporary restraining order to maintain the status quo between the parties to a divorce before a hearing can be held to set rules for protection of the parties and the estate until the divorce is final. Interested parties assert that courts have the authority to restrain activities outside of the activities specifically addressed in statute and that many lawyers and judges commonly develop orders that include items not listed in statute, such as the use of e-mail and other technology to harass a party. S.B. 815 seeks to provide a more comprehensive list of the kinds of property and protections a court may address for the parties to a divorce.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 815 amends the Family Code to include the following activities among the prohibited activities a court may include in a temporary restraining order for the preservation of the property and for the protection of the parties to a suit for the dissolution of marriage:

- entering any safe deposit box in the name of or subject to the control of the parties or either party, whether individually or jointly with others;
- changing or in any manner altering the beneficiary designation on any life insurance policy on the life of either party or a child of the parties;
- canceling, altering, failing to renew or pay premiums on, or in any manner affecting the level of coverage that existed at the time the suit was filed of, any life, casualty, automobile, or health insurance policy insuring the parties' property or persons, including a child of the parties;
- opening or diverting mail or e-mail or any other electronic communication addressed to the other party;
- signing or endorsing the other party's name on any negotiable instrument, check, or draft, including a tax refund, insurance payment, and dividend, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party;
- taking any action to terminate or limit credit or charge credit cards in the name of the other party;

- discontinuing or reducing the withholding for federal income taxes from either party's wages or salary;
- destroying, disposing of, or altering any financial records of the parties;
- destroying, disposing of, or altering any e-mail, text message, video message, or chat message or other relevant electronic data or electronically stored information;
- modifying, changing, or altering the native format or metadata of any relevant electronic data or electronically stored information;
- deleting any data or content from any social network profile used or created by either party or a child of the parties;
- using any password or personal identification number to gain access to the other party's e-mail account, bank account, social media account, or any other electronic account;
- terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or any other contractual service, including security, pest control, landscaping, or yard maintenance at the residence of either party, or in any manner attempting to withdraw any deposit paid in connection with any of those services;
- excluding the other party from the use and enjoyment of a specifically identified residence of the other party; or
- entering, operating, or exercising control over a motor vehicle in the possession of the other party.

The bill includes the following activities among the prohibited activities a court may include in such a temporary restraining order, except as specifically authorized by the court:

- selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of the parties or either party;
- incurring any debt, other than legal expenses in connection with the suit;
- withdrawing money from any checking or savings account in a financial institution for any purpose;
- spending any money in either party's possession or subject to either party's control for any purpose;
- withdrawing or borrowing money in any manner for any purpose from a retirement, profit sharing, pension, death, or other employee benefit plan, employee savings plan, individual retirement account, or Keogh account of either party; or
- withdrawing or borrowing in any manner all or any part of the cash surrender value of a life insurance policy on the life of either party or a child of the parties.

S.B. 815 specifies that a temporary restraining order prohibiting one or both parties to a suit for dissolution of marriage from engaging in certain types of communication or threats intended to annoy or alarm the other party applies to communication and threats made by electronic voice transmission, video chat, and electronic messaging and extends the protection of property under such an order to include intellectual property and electronically recorded and electronically stored information.

EFFECTIVE DATE

September 1, 2015.