

By: Rodriguez of Travis

H.B. No. 2409

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the storage of firearms surrendered by a person subject  
3 to a magistrate's order for emergency protection or protective  
4 order as a result of family violence, sexual assault or abuse,  
5 stalking, or trafficking of persons.

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

7 SECTION 1. Article [7A.06](#)(a), Code of Criminal Procedure, is  
8 amended to read as follows:

9 (a) Each protective order issued under this chapter,  
10 including a temporary ex parte order, must contain the following  
11 prominently displayed statements in boldfaced type, capital  
12 letters, or underlined:

13 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR  
14 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN  
15 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

16 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS  
17 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY  
18 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS  
19 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT  
20 UNLESS A COURT CHANGES THE ORDER."

21 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS  
22 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT  
23 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL  
24 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A

1 FIREARM OR AMMUNITION. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER  
2 ANY FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE  
3 LOCATION AS PROVIDED BY SECTION 85.0225, FAMILY CODE, FOR THE  
4 DURATION OF THIS ORDER."

5 SECTION 2. Article 17.292(g), Code of Criminal Procedure,  
6 is amended to read as follows:

7 (g) An order for emergency protection issued under this  
8 article must contain the following statements printed in bold-face  
9 type or in capital letters:

10 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED  
11 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY  
12 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT  
13 RESULTS IN FAMILY VIOLENCE OR A STALKING OFFENSE MAY BE PROSECUTED  
14 AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS  
15 PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY  
16 CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A  
17 FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY  
18 SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A  
19 SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL  
20 SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A  
21 SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT. A  
22 PERSON SUBJECT TO THIS ORDER MAY SURRENDER ANY FIREARMS IN THE  
23 PERSON'S POSSESSION TO A DESIGNATED SECURE LOCATION AS PROVIDED BY  
24 SECTION 85.0225, FAMILY CODE, FOR THE DURATION OF THIS ORDER.

25 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS  
26 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY  
27 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS

1 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT  
2 UNLESS A COURT CHANGES THE ORDER."

3 SECTION 3. Subchapter B, Chapter 85, Family Code, is  
4 amended by adding Section 85.0225 to read as follows:

5 Sec. 85.0225. PROVISIONS FOR SURRENDER OF FIREARM BY PERSON  
6 SUBJECT TO PROTECTIVE ORDER. (a) The commissioners court of each  
7 county shall designate a secure location to store firearms  
8 surrendered under this section.

9 (b) A person subject to a protective order under this  
10 chapter or Chapter 7A, Code of Criminal Procedure, or a  
11 magistrate's order for emergency protection under Article 17.292,  
12 Code of Criminal Procedure, may surrender a firearm possessed by  
13 the person to the secure location designated by the commissioners  
14 court in the county in which the person resides. The individual  
15 responsible for the administration of the designated secure  
16 location shall accept the firearm and store it in the secure  
17 location until the expiration of the protective order. An  
18 individual who accepts a surrendered firearm shall immediately  
19 provide the person surrendering the firearm a written copy of the  
20 receipt for the firearm and a written notice of the procedure for  
21 the return of the firearm.

22 (c) Unless otherwise prohibited by law from possessing a  
23 firearm, a person who surrenders a firearm under Subsection (b) is  
24 entitled to the return of the firearm on the expiration of the  
25 protective order and after making a request to the individual  
26 responsible for administering the secure location to which the  
27 firearm was surrendered.

1        (d) If the firearm is not requested before the 61st day  
2 after the date the protective order expires, the commissioners  
3 court shall order the firearm destroyed, sold at public sale by an  
4 auctioneer licensed under Chapter 1802, Occupations Code, or  
5 forfeited to the state for use by a law enforcement agency in the  
6 county, designated by the commissioners court. Only a firearms  
7 dealer licensed under 18 U.S.C. Section 923 may purchase a firearm  
8 at public sale under this subsection. Proceeds from the sale of an  
9 unclaimed firearm under this section, after deduction of auction  
10 costs, shall be deposited in the county treasury in a special fund  
11 to be used to administer the secure location for the surrender of  
12 firearms under this section. An expenditure from the fund may be  
13 made only in accordance with a budget approved by the commissioners  
14 court.

15        SECTION 4. Section 85.026(a), Family Code, is amended to  
16 read as follows:

17        (a) Each protective order issued under this subtitle,  
18 including a temporary ex parte order, must contain the following  
19 prominently displayed statements in boldfaced type, capital  
20 letters, or underlined:

21        "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR  
22 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN  
23 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

24        "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS  
25 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY  
26 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS  
27 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT

1 UNLESS A COURT CHANGES THE ORDER."

2 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS  
3 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT  
4 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL  
5 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A  
6 FIREARM OR AMMUNITION. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER  
7 ANY FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE  
8 LOCATION AS PROVIDED BY SECTION 85.0225, FAMILY CODE, FOR THE  
9 DURATION OF THIS ORDER."

10 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED  
11 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY  
12 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT  
13 RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE  
14 MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A  
15 SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON  
16 FOR AT LEAST TWO YEARS."

17 SECTION 5. (a) The commissioners court of each county shall  
18 designate a secure location for the storage of surrendered  
19 firearms, as required by this Act, not later than December 1, 2015,  
20 and shall begin accepting surrendered firearms on January 1, 2016.

21 (b) The change in law made by this Act relating to the  
22 contents of a protective order or a magistrate's order for  
23 emergency protection applies to an order issued on or after January  
24 1, 2016. An order issued before that date is governed by the law as  
25 it existed immediately before the effective date of this Act, and  
26 the former law is continued in effect for that purpose.

27 SECTION 6. This Act takes effect September 1, 2015.