86R8017 TSS-D

By:  Watson S.B. No. 1946

A BILL TO BE ENTITLED

AN ACT

relating to a standardized form and materials necessary for protective orders, magistrate's orders for emergency protection, and temporary ex parte orders.

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

SECTION 1.  Article 7A.01, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c)  A person filing an application under this article shall use the protective order application form created by the Office of Court Administration of the Texas Judicial System under Section 72.033, Government Code, and that is available on the office's Internet website.

SECTION 2.  Article 7A.02, Code of Criminal Procedure, is amended to read as follows:

Art. 7A.02.  TEMPORARY EX PARTE ORDER. (a) If the court finds from the information contained in an application for a protective order that there is a clear and present danger of sexual assault or abuse, stalking, trafficking, or other harm to the applicant, the court, without further notice to the alleged offender and without a hearing, may enter a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

(b)  The court shall use the standardized temporary ex parte order form created by the Office of Court Administration of the Texas Judicial System under Section 72.033, Government Code, to enter a temporary ex parte order under this article.

SECTION 3.  Article 7A.03, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c)  The court shall use the standardized protective order form created by the Office of Court Administration of the Texas Judicial System under Section 72.033, Government Code, to enter a protective order under this article.

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

(d-1)  The magistrate shall use the standardized order for emergency protection form created by the Office of Court Administration of the Texas Judicial System under Section 72.033, Government Code, to enter an order for emergency protection under this article.

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

Sec. 82.004.  CONTENTS OF APPLICATION. A person filing an application under this chapter shall use the protective order application form created by the Office of Court Administration of the Texas Judicial System under Section 72.033, Government Code, and that is available on the office's Internet website, and shall include in the application [~~An application must state~~]:

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

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

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

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

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

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

Sec. 83.007.  STANDARD TEMPORARY EX PARTE ORDER FORM. The court shall use the standardized temporary ex parte order form created by the Office of Court Administration of the Texas Judicial System under Section 72.033, Government Code, to enter a temporary ex parte order under this chapter.

SECTION 7.  Subchapter B, Chapter 85, Family Code, is amended by adding Section 85.0225 to read as follows:

Sec. 85.0225.  STANDARD PROTECTIVE ORDER FORM. The court shall use the standardized protective order form created by the Office of Court Administration of the Texas Judicial System under Section 72.033, Government Code, to enter a protective order under this chapter.

SECTION 8.  Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.033 to read as follows:

Sec. 72.033.  PROTECTIVE ORDER APPLICATIONS, FORMS, AND MATERIALS. (a) The office shall develop and make available on the office's Internet website standardized forms and other materials necessary to apply for, enter, deny, revise, rescind, serve, and enforce:

(1)  a protective order under Title 4, Family Code, and Article 7A.01, Code of Criminal Procedure;

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

(3)  a temporary ex parte order under Chapter 83, Family Code, and Article 7A.02, Code of Criminal Procedure.

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

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

(2)  the duration of the order;

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

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

(c)  The materials developed under Subsection (a) must include:

(1)  a procedure to allow the magistrate or court to discover the respondent's access to a firearm and a plan the respondent is required to follow in relinquishing any licenses or firearms; and

(2)  a procedure to ensure that a copy of the order is transmitted to all required parties and all relevant information is entered into the statewide law enforcement information system maintained by the Department of Public Safety under Section 411.042 and any other applicable databases.

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

(1)  consult with individuals and organizations with knowledge and experience in the issues of protective orders, including the Texas Council on Family Violence; and

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

SECTION 9.  As soon as practicable after the effective date of this Act, but no later than June 1, 2020, the Office of Court Administration of the Texas Judicial System shall create and make available on the office's Internet website all forms and materials required by Section 72.033, Government Code, as added by this Act. If the office completes the forms and materials required by Section 72.033, Government Code, as added by this Act, before June 1, 2020, the office shall notify each court clerk, judge, magistrate, and prosecution agency in the state of the availability of the forms and materials.

SECTION 10.  Article 7A.01, Code of Criminal Procedure, and Section 82.004, Family Code, as amended by this Act, apply only to an application for a protective order that is filed on or after June 1, 2020. An application for a protective order filed before June 1, 2020, is governed by the law in effect on the date the application is filed, and the former law is continued in effect for that purpose.

SECTION 11.  Articles 7A.02, 7A.03, and 17.292, Code of Criminal Procedure, as amended by this Act, and Sections 83.007 and 85.0225, Family Code, as added by this Act, apply only to a protective order, magistrate's order for emergency protection, or temporary ex parte order that is entered on or after June 1, 2020. An order entered before June 1, 2020, is governed by the law in effect on the date the order is entered, and the former law is continued in effect for that purpose.

SECTION 12.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.