

By: Moody

H.B. No. 3191

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requiring a person who is the subject of a family
3 violence protective order or arrested for or charged with an
4 offense involving family violence to surrender firearms owned by
5 the person.

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

7 SECTION 1. Chapter 236, Local Government Code, is amended
8 by adding Section 236.004 to read as follows:

9 Sec. 236.004. COUNTY TASK FORCES FOR SURRENDER AND RETURN
10 OF FIREARMS DUE TO FAMILY VIOLENCE. (a) In this section:

11 (1) "Family violence center" means a public or private
12 nonprofit organization that provides, as its primary purpose,
13 services to victims of family violence, including the services
14 under Section 51.005(b)(3), Human Resources Code.

15 (2) "Firearm" has the meaning assigned by Section
16 46.01, Penal Code.

17 (3) "Task force" means a task force for the surrender
18 and return of firearms due to family violence, as created by a
19 county under this section.

20 (4) "Victim of family violence" has the meaning
21 assigned by Section 51.002, Human Resources Code.

22 (b) Each county commissioners court shall establish a task
23 force for the surrender and return of firearms due to family
24 violence, including the following members if applicable for the

1 county:

2 (1) the chief administrative officer of a family
3 violence center or the chief administrator's designee;

4 (2) the chief of police of the municipality having the
5 largest population in the county or the chief's designee;

6 (3) the sheriff of the county or the sheriff's
7 designee;

8 (4) a judge of a court in the county with jurisdiction
9 over cases involving family violence; and

10 (5) a prosecutor with jurisdiction in the county over
11 cases involving family violence.

12 (c) The county commissioners court shall call the first
13 meeting of the task force at which the members shall elect a
14 presiding officer. All subsequent meetings shall be held at the
15 call of the presiding officer.

16 (d) The presiding officer may appoint additional members to
17 the task force if necessary for the task force to complete its
18 duties under Subsection (g).

19 (e) The task force may consult with individuals or
20 organizations having knowledge and experience in the issues of
21 firearms and family violence.

22 (f) A vacancy for a member of the task force shall be filled
23 immediately and in the same manner as the original appointment.

24 (g) The task force shall develop policy recommendations,
25 model forms, and guidelines for best practices related to the
26 surrender, receipt, storage, return, and disposal of firearms due
27 to an order prohibiting a person from possessing a firearm

1 following a finding of family violence entered by a court or an
2 arrest or charge for an offense involving family violence,
3 including:

4 (1) a protective order issued under Title 4, Family
5 Code, or Chapter 7A, Code of Criminal Procedure;

6 (2) a magistrate's order of emergency protection
7 issued under Article 17.292, Code of Criminal Procedure;

8 (3) an order setting the conditions of bond for a
9 defendant charged with an offense involving family violence under
10 Article 17.49, Code of Criminal Procedure; and

11 (4) an order granting community supervision to a
12 defendant as described by Article 42A.504, Code of Criminal
13 Procedure.

14 (h) In developing the recommendations, forms, and
15 guidelines required under this section, the task force shall:

16 (1) consult with a family violence advocacy
17 organization that provides services throughout the state;

18 (2) prioritize the safety of victims of family
19 violence and law enforcement personnel;

20 (3) ensure due process is provided;

21 (4) provide specific guidance on the surrender,
22 receipt, and storage of a firearm and the return or disposal of a
23 firearm;

24 (5) require proof of compliance with orders requiring
25 the surrender of a firearm; and

26 (6) provide for an enforcement option if compliance is
27 not proven within 48 hours of the issuance of an order requiring

1 surrender of a firearm.

2 (i) The task force shall make available all
3 recommendations, forms, and guidelines developed under this
4 section to all judges with jurisdiction over cases involving family
5 violence in the county and all law enforcement agencies with
6 jurisdiction in the county.

7 (j) The task force shall meet not later than the 90th day
8 following the end of each regular legislative session to review and
9 amend any recommendations, forms, or guidelines developed under
10 this section.

11 (k) Not later than December 1 of each odd-numbered year, the
12 task force shall provide the county commissioners court a report
13 including:

14 (1) a list of task force members;

15 (2) a summary of all recommendations, forms, and
16 guidelines developed under this section;

17 (3) a description of practices and procedures in the
18 courts and law enforcement agencies within the county in regard to
19 the surrender, receipt, storage, return, and disposal of firearms
20 due to family violence; and

21 (4) a description of potential sources of funding
22 available to implement recommendations.

23 (l) The commissioners courts of multiple counties may agree
24 to form a regional task force under this section to serve the needs
25 of all counties in the agreement.

26 SECTION 2. Article 7A.05, Code of Criminal Procedure, is
27 amended by adding Subsection (b-2) to read as follows:

1 (b-2)(1) In an order under Subsection (a)(2)(D), if the
2 applicant's relationship to or association with the alleged
3 offender is described by Section 71.0021(b), 71.003, or 71.005,
4 Family Code, the court may also order the alleged offender to
5 surrender all firearms owned by the offender.

6 (2) Any order entered under this subsection must:

7 (A) provide notice to the alleged offender;

8 (B) provide for the receipt and storage of and
9 for the return or disposal of a surrendered firearm; and

10 (C) require proof of compliance.

11 (3) When entering an order under this subsection, the
12 court may adopt a recommendation, model form, or guideline
13 developed by a task force under Section 236.004, Local Government
14 Code, for the county in which the court is located.

15 SECTION 3. Article 17.292, Code of Criminal Procedure, is
16 amended by adding Subsection (1-1) to read as follows:

17 (1-1)(1) If an order for emergency protection issued under
18 this article prohibits the defendant from possessing a firearm and
19 if the defendant was arrested for an offense involving family
20 violence, the magistrate may also order the defendant to surrender
21 all firearms owned by the defendant.

22 (2) Any order entered under this subsection must:

23 (A) provide notice to the defendant;

24 (B) provide for the receipt and storage of and
25 for the return or disposal of a surrendered firearm; and

26 (C) require proof of compliance.

27 (3) When entering an order under this subsection, the

1 magistrate may adopt a recommendation, model form, or guideline
2 developed by a task force under Section 236.004, Local Government
3 Code, for the county in which the court is located.

4 SECTION 4. Article 17.49, Code of Criminal Procedure, is
5 amended by amending Subsection (b) and adding Subsection (c-1) to
6 read as follows:

7 (b) A magistrate may require as a condition of release on
8 bond that a defendant charged with an offense involving family
9 violence:

10 (1) refrain from going to or near a residence, school,
11 place of employment, or other location, as specifically described
12 in the bond, frequented by an alleged victim of the offense;

13 (1-a) refrain from possessing a firearm, unless the
14 defendant is a peace officer, as defined by Section 1.07, Penal
15 Code, actively engaged in employment as a sworn, full-time paid
16 employee of a state agency or political subdivision;

17 (2) carry or wear a global positioning monitoring
18 system device and, except as provided by Subsection (h), pay the
19 costs associated with operating that system in relation to the
20 defendant; or

21 (3) except as provided by Subsection (h), if the
22 alleged victim of the offense consents after receiving the
23 information described by Subsection (d), pay the costs associated
24 with providing the victim with an electronic receptor device that:

25 (A) is capable of receiving the global
26 positioning monitoring system information from the device carried
27 or worn by the defendant; and

1 (B) notifies the victim if the defendant is at or
2 near a location that the defendant has been ordered to refrain from
3 going to or near under Subdivision (1).

4 (c-1)(1) If the magistrate imposes a condition described by
5 Subsection (b)(1-a), the magistrate may also enter an order
6 requiring the defendant to surrender all firearms owned by the
7 defendant.

8 (2) Any order entered under this subsection must:

9 (A) provide notice to the defendant;

10 (B) provide for the receipt and storage of and
11 for the return or disposal of a surrendered firearm; and

12 (C) require proof of compliance.

13 (3) When entering an order under this subsection, the
14 magistrate may adopt a recommendation, model form, or guideline
15 developed by a task force under Section 236.004, Local Government
16 Code, for the county in which the court is located.

17 SECTION 5. Article [42A.504](#), Code of Criminal Procedure, is
18 amended by amending Subsection (c) and adding Subsections (e) and
19 (f) to read as follows:

20 (c) If the court grants community supervision to a defendant
21 convicted of an offense involving family violence, the court may
22 require the defendant, at the direction of the supervision officer,
23 to:

24 (1) attend a battering intervention and prevention
25 program or counsel with a provider of battering intervention and
26 prevention services if the program or provider has been accredited
27 under Section 4A, Article [42.141](#), as conforming to program

1 guidelines under that article; ~~[or]~~

2 (2) if the referral option under Subdivision (1) is
3 not available, attend counseling sessions for the elimination of
4 violent behavior with a licensed counselor, social worker, or other
5 professional who has completed family violence intervention
6 training that the community justice assistance division of the
7 Texas Department of Criminal Justice has approved, after
8 consultation with the licensing authorities described by Chapters
9 152, 501, 502, 503, and 505, Occupations Code, and experts in the
10 field of family violence; or

11 (3) refrain from possessing a firearm, unless the
12 defendant is a peace officer, as defined by Section 1.07, Penal
13 Code, actively engaged in employment as a sworn, full-time paid
14 employee of a state agency or political subdivision.

15 (e) If the court under Subsection (c)(3) requires the
16 defendant to refrain from possessing a firearm, the court may also
17 enter an order requiring the defendant to surrender all firearms
18 owned by the defendant. Any order entered under this subsection
19 must:

20 (1) provide notice to the defendant;

21 (2) provide for the receipt and storage of and for the
22 return or disposal of a surrendered firearm; and

23 (3) require proof of compliance.

24 (f) When entering an order under Subsection (e), the court
25 may adopt a recommendation, model form, or guideline developed by a
26 task force under Section 236.004, Local Government Code, for the
27 county in which the court is located.

1 SECTION 6. Section 85.022, Family Code, is amended by
2 adding Subsections (c-1) and (c-2) to read as follows:

3 (c-1) In an order under Subsection (b)(6), the court may
4 also order the person to surrender all firearms owned by the person.
5 Any order entered under this subsection must:

- 6 (1) provide notice to the person;
7 (2) provide for the receipt and storage of and for the
8 return or disposal of a surrendered firearm; and
9 (3) require proof of compliance.

10 (c-2) When entering an order under Subsection (c-1), the
11 court may adopt a recommendation, model form, or guideline
12 developed by a task force under Section 236.004, Local Government
13 Code, for the county in which the court is located.

14 SECTION 7. Notwithstanding the requirement in Section
15 236.004, Local Government Code, as added by this Act, that a report
16 be submitted by December 1 of each odd-numbered year, a task force
17 created under that section shall submit its first report to the
18 county commissioners court not later than June 1, 2020.

19 SECTION 8. The changes in law made by this Act apply only to
20 a protective order, magistrate's order of emergency protection,
21 order granting community supervision, or order releasing a
22 defendant on bond entered on or after the effective date of this
23 Act. A protective order, magistrate's order of emergency
24 protection, order granting community supervision, or order
25 releasing a defendant on bond entered before the effective date of
26 this Act is governed by the law in effect on the date the order was
27 entered, and the former law is continued in effect for that purpose.

1 SECTION 9. This Act takes effect September 1, 2019.