

By: Rodríguez

S.B. No. 260

A BILL TO BE ENTITLED

1 AN ACT

2 relating to access to a residence or former residence to retrieve
3 personal property by persons who are parties to certain suits and
4 decrees.

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

6 SECTION 1. Section 24A.002, Property Code, is amended by
7 adding Subsection (a-1) and amending Subsections (b) and (e) to
8 read as follows:

9 (a-1) A person may not apply for a writ under Subsection (a)
10 if:

11 (1) the person and the current occupant are parties to
12 a pending suit under Title 1, Family Code; or

13 (2) the person's right to possession of the items
14 described in the application is based on an order or award in a
15 decree of divorce or annulment to which the person and the current
16 occupant are subject.

17 (b) An application under Subsection (a) must:

18 (1) certify that the applicant is unable to enter the
19 residence because the current occupant of the residence:

20 (A) has denied the applicant access to the
21 residence; or

22 (B) poses a clear and present danger of family
23 violence to the applicant or the applicant's dependent;

24 (2) certify that, to the best of the applicant's

1 knowledge, the applicant is not:

2 (A) the subject of an active protective order
3 under Title 4, Family Code, a magistrate's order for emergency
4 protection under Article 17.292, Code of Criminal Procedure, or
5 another court order prohibiting entry to the residence; or

6 (B) otherwise prohibited by law from entering the
7 residence;

8 (3) certify that the applicant and the current
9 occupant are not parties to a pending suit under Title 1, Family
10 Code;

11 (4) certify that the applicant's right to possession
12 of the items described in the application is not based on an order
13 or award in a decree of divorce or annulment to which the applicant
14 and the current occupant are subject;

15 (5) allege that the applicant or the applicant's
16 dependent requires personal items located in the residence that are
17 only of the following types:

18 (A) medical records;

19 (B) medicine and medical supplies;

20 (C) clothing;

21 (D) child-care items;

22 (E) legal or financial documents;

23 (F) checks or bank or credit cards in the name of
24 the applicant;

25 (G) employment records;

26 (H) personal identification documents; or

27 (I) copies of electronic records containing

1 legal or financial documents;

2 (6) [~~(4)~~] describe with specificity the items that the
3 applicant intends to retrieve;

4 (7) [~~(5)~~] allege that the applicant or the applicant's
5 dependent will suffer personal harm if the items listed in the
6 application are not retrieved promptly; and

7 (8) [~~(6)~~] include a lease or other documentary
8 evidence that shows the applicant is currently or was formerly
9 authorized to occupy the residence.

10 (e) On sufficient evidence of urgency and potential harm to
11 the health and safety of any person and after sufficient notice to
12 the current occupant and an opportunity to be heard, the justice of
13 the peace may grant the application under this section and issue a
14 writ authorizing the applicant to enter the residence accompanied
15 by a peace officer and retrieve the property listed in the
16 application if the justice of the peace finds that:

17 (1) the applicant is unable to enter the residence
18 because the current occupant of the residence has denied the
19 applicant access to the residence to retrieve the applicant's
20 personal property or the personal property of the applicant's
21 dependent;

22 (2) the applicant is not:

23 (A) the subject of an active protective order
24 under Title 4, Family Code, a magistrate's order for emergency
25 protection under Article [17.292](#), Code of Criminal Procedure, or
26 another court order prohibiting entry to the residence; or

27 (B) otherwise prohibited by law from entering the

1 residence;

2 (3) the applicant and the current occupant are not
3 parties to a pending suit under Title 1, Family Code;

4 (4) the applicant's right to possession of the items
5 described in the application is not based on an order or award in a
6 decree of divorce or annulment to which the applicant and the
7 current occupant are subject;

8 (5) there is a risk of personal harm to the applicant
9 or the applicant's dependent if the items listed in the application
10 are not retrieved promptly;

11 (6) [~~4~~] the applicant is currently or was formerly
12 authorized to occupy the residence according to a lease or other
13 documentary evidence; and

14 (7) [~~5~~] the current occupant received notice of the
15 application and was provided an opportunity to appear before the
16 court to contest the application.

17 SECTION 2. Section 24A.0021(a), Property Code, is amended
18 to read as follows:

19 (a) A justice of the peace may issue a writ under Section
20 24A.002 without providing notice and hearing under Section
21 24A.002(e)(7) [~~24A.002(e)(5)~~] if the justice finds at a hearing on
22 the application that:

23 (1) the conditions of Sections 24A.002(e)(1)-(6)
24 [~~24A.002(e)(1)-(4)~~] are established;

25 (2) the current occupant poses a clear and present
26 danger of family violence to the applicant or the applicant's
27 dependent; and

1 (3) the personal harm to be suffered by the applicant
2 or the applicant's dependent will be immediate and irreparable if
3 the application is not granted.

4 SECTION 3. Chapter [24A](#), Property Code, as amended by this
5 Act, applies only to an application filed on or after the effective
6 date of this Act. An application filed before the effective date of
7 this Act is governed by the law in effect on the date the
8 application was filed, and the former law is continued in effect for
9 that purpose.

10 SECTION 4. This Act takes effect September 1, 2019.