

By: Alvarado

S.B. No. 1018

A BILL TO BE ENTITLED

AN ACT

relating to requiring a person convicted of an offense involving family violence or a person who is the subject of a protective order to surrender firearms owned by the person.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. SURRENDER OF FIREARM ON CONVICTION OF CERTAIN OFFENSES
OR ISSUANCE OF CERTAIN PROTECTIVE ORDERS

Art. 68.01. APPLICABILITY. This chapter applies to a person who:

(1) is convicted of an offense involving family violence, as defined by Section 71.004, Family Code;

(2) is the subject of a protective order under Chapter 85, Family Code; or

(3) is the subject of a magistrate's order for emergency protection under Article 17.292 following an arrest for an offense involving family violence.

Art. 68.02. NOTICE AND ORDER TO SURRENDER FIREARM. On conviction of a person for an offense described by Article 68.01(1) or issuance of an order described by Article 68.01(2) or (3), the court shall:

(1) provide written notice to the person who was convicted or who is the subject of the order that the person is

1 prohibited from acquiring, possessing, or controlling a firearm
2 under 18 U.S.C. Section 922(g); and

3 (2) order the person to surrender all firearms the
4 person owns in the manner provided by Article 68.03 not later than
5 the seventh day after:

6 (A) the date the person receives notice under
7 this article; or

8 (B) if the person was taken into custody
9 immediately after conviction, the date the person is released from
10 confinement.

11 Art. 68.03. SURRENDER OF FIREARM. A person required to
12 surrender a firearm under Article 68.02 shall surrender the firearm
13 by:

14 (1) regardless of the reason for which the person is
15 required to surrender the firearm, releasing the firearm to the
16 person's designee, if the designee provides to the court of
17 conviction or the court issuing the order, as applicable, a signed
18 affidavit affirming that the designee:

19 (A) may lawfully possess a firearm under 18
20 U.S.C. Section 922(g) and under the law of this state; and

21 (B) has taken possession of the firearm;

22 (2) selling the firearm to a person who is a licensed
23 firearms dealer under 18 U.S.C. Section 923, regardless of the
24 reason for which the person is required to surrender the firearm;

25 (3) surrendering the firearm to a law enforcement
26 agency for holding in the manner described by Article 68.05, if the
27 person is required to surrender the firearm based on:

1 (A) a conviction described by Article 68.01(1)
2 that the person intends to appeal; or

3 (B) an order described by Article 68.01(2) or
4 (3); or

5 (4) surrendering the firearm to a law enforcement
6 agency for disposition in the manner provided by Article 68.06, if
7 the person is required to surrender the firearm based on a
8 conviction described by Article 68.01(1) that the person does not
9 intend to appeal.

10 Art. 68.04. REQUIRED DOCUMENTATION. (a) A person subject
11 to an order under Article 68.02 who does not own a firearm shall
12 submit to the court a signed affidavit affirming that the person
13 does not own a firearm.

14 (b) A licensed firearms dealer who takes possession of a
15 firearm from a person required to surrender the firearm under
16 Article 68.02 shall immediately provide the person with a written
17 receipt for the firearm, and the person shall file the receipt with
18 the court.

19 Art. 68.05. HOLDING OF FIREARM SURRENDERED TO LAW
20 ENFORCEMENT AGENCY. (a) A law enforcement agency that takes
21 possession of a firearm under Article 68.03(3) shall immediately
22 provide the person surrendering the firearm a written receipt for
23 the firearm and a written notice of the procedure for the return of
24 the firearm under this article.

25 (b) A person who receives a receipt under Subsection (a)
26 shall file the receipt with the court.

27 (c) Not later than the 30th day after the date of any of the

1 following, the clerk of the court shall notify the law enforcement
2 agency that, as applicable:

3 (1) the conviction for which the person was required
4 to surrender the person's firearm became final;

5 (2) the conviction for which the person was required
6 to surrender the person's firearm was vacated, dismissed, reversed
7 on appeal, or otherwise fully discharged or the person received a
8 full pardon for the conviction; or

9 (3) the order for which the person was required to
10 surrender the person's firearm has expired.

11 (d) Not later than the 30th day after the date the law
12 enforcement agency holding a firearm subject to disposition under
13 this article receives the notice described by Subsection (c)(2) or
14 (3), the law enforcement agency shall conduct a check of state and
15 national criminal history record information to verify whether the
16 person may lawfully possess a firearm under 18 U.S.C. Section
17 922(g) and under the law of this state.

18 (e) If the check conducted under Subsection (d) verifies
19 that the person may lawfully possess a firearm, the law enforcement
20 agency shall provide to the person by certified mail written notice
21 stating that the firearm may be returned to the person if, before
22 the 121st day after the date of the notice, the person submits a
23 written request for the return of the firearm.

24 (f) If the law enforcement agency receives notice under
25 Subsection (c)(1) or if the check conducted under Subsection (d)
26 shows that the person may not lawfully possess a firearm, the law
27 enforcement agency shall provide to the person by certified mail

1 written notice stating that the person:

2 (1) may not lawfully possess a firearm under 18 U.S.C.
3 Section 922(g) or under the law of this state; and

4 (2) may dispose of the firearm by releasing the
5 firearm to:

6 (A) the person's designee if:

7 (i) the person requests that disposition
8 before the 121st day after the date of the notice; and

9 (ii) the designee provides to the law
10 enforcement agency a signed affidavit affirming that the designee
11 may lawfully possess a firearm under 18 U.S.C. Section 922(g) and
12 under the law of this state; or

13 (B) the law enforcement agency holding the
14 firearm, for disposition in the manner provided by Article 68.06.

15 Art. 68.06. DISPOSITION OF FIREARM SURRENDERED TO LAW
16 ENFORCEMENT AGENCY. (a) A law enforcement agency shall provide for
17 a firearm surrendered to the law enforcement agency under this
18 chapter to be sold by a person who is a licensed firearms dealer
19 under 18 U.S.C. Section 923 if:

20 (1) the person surrendered the firearm under Article
21 68.03(3) and the person did not respond to notice under Article
22 68.05(e) or (f) before the 121st day after the date of the notice;
23 or

24 (2) the person surrendered the firearm under Article
25 68.03(4).

26 (b) The proceeds from the sale of a firearm under this
27 article shall be paid to the owner of the firearm, less the cost of

1 administering this article and, if applicable, Article 68.05 with
2 respect to the firearm.

3 (c) An unclaimed firearm that is surrendered as provided by
4 this chapter may not be destroyed or forfeited to the state.

5 Art. 68.07. FORM OF AFFIDAVITS. The Office of Court
6 Administration of the Texas Judicial System shall adopt model
7 affidavits for purposes of Articles 68.03, 68.04, and 68.05.

8 SECTION 2. (a) The change in law made by this Act applies
9 only to a person who is convicted of an offense described by Article
10 68.01(1), Code of Criminal Procedure, as added by this Act, on or
11 after January 1, 2020, or who is the subject of an order described
12 by Article 68.01(2) or (3), Code of Criminal Procedure, as added by
13 this Act, that is issued on or after that date. A person who is
14 convicted of an offense before January 1, 2020, or who is the
15 subject of an order issued before that date is governed by the law
16 in effect immediately before the effective date of this Act, and the
17 former law is continued in effect for that purpose.

18 (b) The Office of Court Administration of the Texas Judicial
19 System shall adopt the model affidavits required by Article 68.07,
20 Code of Criminal Procedure, as added by this Act, not later than
21 December 1, 2019.

22 SECTION 3. This Act takes effect September 1, 2019.