

BILL ANALYSIS

C.S.S.B. 1458
By: Zaffirini
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Courts do not use a standardized form to issue protective orders, magistrate's orders for emergency protection, and temporary ex parte orders. The variation in paperwork issued can delay the Department of Public Safety (DPS) in uploading information to necessary state and federal databases. Courts issue protective orders in cases of family violence, sexual assault, human trafficking, and stalking. Persons against whom courts issue protective orders could take drastic retaliatory action, especially when there is a long-term abusive relationship involved. C.S.S.B. 1458 requires persons applying for protective orders and courts and magistrates issuing protective orders to use standardized forms, which would allow DPS to discern immediately if a protective order is in place. This includes protective orders, magistrate's orders for emergency protection, and temporary ex parte orders. This, in turn, would ensure information regarding these orders is submitted quickly and efficiently to state and federal databases when the possibility that the situation will escalate is substantial.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1458 amends the Government Code to require the Office of Court Administration of the Texas Judicial System (OCA), not later than June 1, 2022, to develop and make available on the OCA website standardized forms and other materials necessary to apply for, issue, deny, revise, rescind, serve, and enforce any of the following:

- a protective order or a temporary ex parte order for family violence or for victims of sexual assault or abuse, stalking, or trafficking; or
- a magistrate's order for emergency protection.

The bill requires each such standardized form to be used by a magistrate or court to include the following:

- the prohibitions and requirements imposed on the respondent;
- the duration of the order;
- the potential consequences of violating the order; and
- any other admonishments or warnings required by law.

The bill requires the materials developed by OCA to include a procedure to ensure that a copy of the order is transmitted to all required parties and all relevant information required to be collected by the bureau of identification and records of the Department of Public Safety (DPS)

is entered into the statewide law enforcement information system maintained by DPS and any other applicable databases.

C.S.S.B. 1458 requires OCA, in developing the required applications, forms, and materials, to consult with individuals, organizations, and state agencies that have knowledge and experience in the issues of protective orders, including individuals and entities specified by the bill, and to give consideration to promoting uniformity of law among the states that enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act. If OCA completes the forms and materials before June 1, 2022, OCA must notify each court clerk, judge, magistrate, and prosecution agency in Texas of their availability.

C.S.S.B. 1458 amends the Code of Criminal Procedure to require a person filing an application for a protective order for victims of sexual assault or abuse, stalking, or trafficking to use the protective order application form created by OCA. The bill requires a court to use the temporary ex parte order form or the protective order form created by OCA, as applicable, to issue a temporary ex parte order relating to sexual assault or abuse, stalking, or trafficking or a protective order for victims of sexual assault or abuse, stalking, or trafficking. The bill requires a magistrate to use the order for emergency protection form created by OCA to issue an order for emergency protection.

C.S.S.B. 1458 amends the Family Code to require a person filing an application for a protective order for family violence to use the protective order application form created by OCA, in addition to including the information statutorily required for such an application. The bill requires a court to use the temporary ex parte order form or the protective order form created by OCA, as applicable, to issue a temporary ex parte order relating to family violence or a protective order for family violence.

C.S.S.B. 1458 applies to an application for a protective order that is filed on or after June 1, 2022, or a temporary ex parte order, protective order, or magistrate's order for emergency protection that is issued on or after June 1, 2022.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1458 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes the following individuals and entities in addition to the specified entities in the engrossed with which OCA must consult in developing the required applications, forms, and materials:

- nonprofit organizations that advocate for the survivors of sexual assault or family violence;
- individuals, organizations, and state agencies that provide training to judges, prosecutors, and law enforcement officers;
- the judges or justices of courts of varying jurisdictions;
- law enforcement agencies;
- prosecutors; and

an organization that receives federal funding under the legal assistance for victims grant program and that has expertise in issues related to family violence, sexual assault, or stalking.