

By: Moody

H.B. No. 3350

A BILL TO BE ENTITLED

AN ACT

relating to a protective order regarding a defendant charged with certain offenses against persons or property; creating a criminal offense.

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

SECTION 1. Chapter 7B, Code of Criminal Procedure, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PROTECTIVE ORDER FOR CERTAIN OFFENSES AGAINST PERSONS OR PROPERTY

Art. 7B.151. REQUEST FOR PROTECTIVE ORDER. (a) A person who is not otherwise eligible to file an application for a protective order under Title 4, Family Code, or another provision of this chapter may request the court to issue a protective order under Title 4, Family Code, for the protection of the person or the person's property at any proceeding in which the defendant appears before the court related to an offense under:

- (1) Title 5, Penal Code;
- (2) Title 6, Penal Code;
- (3) Chapter 28, Penal Code;
- (4) Chapter 29, Penal Code;
- (5) Chapter 30, Penal Code;
- (6) Section 42.062, Penal Code; or
- (7) Section 42.07, Penal Code.

(b) The request under Subsection (a) is made by filing an

1 application for a protective order in the same manner as an
2 application for a protective order under Title 4, Family Code.

3 (c) The request may be made by, as applicable:

4 (1) the victim of the offense;

5 (2) a parent or guardian acting on behalf of a person
6 under 18 years of age who is the victim of the offense; or

7 (3) the owner of the property that is the subject of
8 the offense.

9 Art. 7B.152. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
10 ORDER. The court shall issue a protective order in the manner
11 provided by Title 4, Family Code, if, in lieu of the finding that
12 family violence occurred and is likely to occur in the future as
13 required by Section 85.001, Family Code, the court finds that:

14 (1) probable cause exists to believe that an offense
15 listed in Article 7B.151(a) was committed; and

16 (2) the nature of the scheme or course of conduct
17 engaged in by the defendant in committing the offense indicates the
18 defendant is likely in the future to engage in conduct prohibited by
19 a provision listed in Article 7B.151(a).

20 Art. 7B.153. ENFORCEMENT. The procedure for the
21 enforcement of a protective order under Title 4, Family Code,
22 applies to the fullest extent practicable to the enforcement of a
23 protective order under this subchapter, including provisions
24 relating to findings, contents, duration, warning, delivery, law
25 enforcement duties, and modification.

26 SECTION 2. Section 6.405(a), Family Code, is amended to
27 read as follows:

1 (a) The petition in a suit for dissolution of a marriage
2 must state whether, in regard to a party to the suit or a child of a
3 party to the suit:

4 (1) there is in effect:

5 (A) a protective order under Title 4;

6 (B) a protective order under Subchapter A or D,
7 Chapter 7B, Code of Criminal Procedure; or

8 (C) an order for emergency protection under
9 Article 17.292, Code of Criminal Procedure; or

10 (2) an application for an order described by
11 Subdivision (1) is pending.

12 SECTION 3. Section 102.008(b), Family Code, is amended to
13 read as follows:

14 (b) The petition must include:

15 (1) a statement that:

16 (A) the court in which the petition is filed has
17 continuing, exclusive jurisdiction or that no court has continuing
18 jurisdiction of the suit; or

19 (B) in a suit in which adoption of a child is
20 requested, the court in which the petition is filed has
21 jurisdiction of the suit under Section 103.001(b);

22 (2) the name and date of birth of the child, except
23 that if adoption of a child is requested, the name of the child may
24 be omitted;

25 (3) the full name of the petitioner and the
26 petitioner's relationship to the child or the fact that no
27 relationship exists;

1 (4) the names of the parents, except in a suit in which
2 adoption is requested;

3 (5) the name of the managing conservator, if any, or
4 the child's custodian, if any, appointed by order of a court of
5 another state or country;

6 (6) the names of the guardians of the person and estate
7 of the child, if any;

8 (7) the names of possessory conservators or other
9 persons, if any, having possession of or access to the child under
10 an order of the court;

11 (8) the name of an alleged father of the child or a
12 statement that the identity of the father of the child is unknown;

13 (9) a full description and statement of value of all
14 property owned or possessed by the child;

15 (10) a statement describing what action the court is
16 requested to take concerning the child and the statutory grounds on
17 which the request is made;

18 (11) a statement as to whether, in regard to a party to
19 the suit or a child of a party to the suit:

20 (A) there is in effect:

21 (i) a protective order under Title 4;

22 (ii) a protective order under Subchapter [A](#)
23 [or D](#), Chapter [7B](#), Code of Criminal Procedure; or

24 (iii) an order for emergency protection
25 under Article [17.292](#), Code of Criminal Procedure; or

26 (B) an application for an order described by
27 Paragraph (A) is pending; and

1 (12) any other information required by this title.

2 SECTION 4. Section 160.6035(a), Family Code, is amended to
3 read as follows:

4 (a) The petition in a proceeding to adjudicate parentage
5 must include a statement as to whether, in regard to a party to the
6 proceeding or a child of a party to the proceeding:

7 (1) there is in effect:

8 (A) a protective order under Title 4;

9 (B) a protective order under Subchapter A or D,
10 Chapter 7B, Code of Criminal Procedure; or

11 (C) an order for emergency protection under
12 Article 17.292, Code of Criminal Procedure; or

13 (2) an application for an order described by
14 Subdivision (1) is pending.

15 SECTION 5. Section 25.07(a), Penal Code, is amended to read
16 as follows:

17 (a) A person commits an offense if, in violation of a
18 condition of bond set in a family violence, sexual assault or abuse,
19 indecent assault, stalking, or trafficking case and related to the
20 safety of a victim or the safety of the community, an order issued
21 under Subchapters A or D, Chapter 7B, Code of Criminal Procedure, an
22 order issued under Article 17.292, Code of Criminal Procedure, an
23 order issued under Section 6.504, Family Code, Chapter 83, Family
24 Code, if the temporary ex parte order has been served on the person,
25 Chapter 85, Family Code, or Subchapter F, Chapter 261, Family Code,
26 or an order issued by another jurisdiction as provided by Chapter
27 88, Family Code, the person knowingly or intentionally:

1 (1) commits family violence or an act in furtherance
2 of an offense under Section 20A.02, 22.011, 22.012, 22.021, or
3 42.072;

4 (2) communicates:

5 (A) directly with a protected individual or a
6 member of the family or household in a threatening or harassing
7 manner;

8 (B) a threat through any person to a protected
9 individual or a member of the family or household; or

10 (C) in any manner with the protected individual
11 or a member of the family or household except through the person's
12 attorney or a person appointed by the court, if the violation is of
13 an order described by this subsection and the order prohibits any
14 communication with a protected individual or a member of the family
15 or household;

16 (3) goes to or near any of the following places as
17 specifically described in the order or condition of bond:

18 (A) the residence or place of employment or
19 business of a protected individual or a member of the family or
20 household; or

21 (B) any child care facility, residence, or school
22 where a child protected by the order or condition of bond normally
23 resides or attends;

24 (4) possesses a firearm;

25 (5) harms, threatens, or interferes with the care,
26 custody, or control of a pet, companion animal, or assistance
27 animal that is possessed by a person protected by the order or

1 condition of bond; [~~or~~]

2 (6) removes, attempts to remove, or otherwise tampers
3 with the normal functioning of a global positioning monitoring
4 system; or

5 (7) commits any offense against the protected
6 individual or with respect to the individual's property.

7 SECTION 6. Sections 6.405(a), 102.008(b), and 160.6035(a),
8 Family Code, as amended by this Act, apply only to a petition filed
9 on or after the effective date of this Act. A petition filed before
10 the effective date of this Act is governed by the law in effect on
11 the date the petition was filed, and the former law is continued in
12 effect for that purpose.

13 SECTION 7. Subchapter D, Chapter 7B, Code of Criminal
14 Procedure, as added by this Act, applies only to an offense
15 committed on or after the effective date of this Act. An offense
16 committed before the effective date of this Act is governed by the
17 law in effect on the date the offense was committed, and the former
18 law is continued in effect for that purpose. For purposes of this
19 section, an offense was committed before the effective date of this
20 Act if any element of the offense occurred before that date.

21 SECTION 8. This Act takes effect September 1, 2021.