

By: Cain

H.B. No. 113

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the recognition and enforcement of extreme risk protective orders; creating a criminal offense.

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

SECTION 1. This Act shall be known as the "Anti-Red Flag Act."

SECTION 2. Title 1, Code of Criminal Procedure, is amended by adding Chapter 7C to read as follows:

CHAPTER 7C. PROHIBITION ON RECOGNITION AND ENFORCEMENT OF EXTREME RISK PROTECTIVE ORDERS

Art. 7C.001. DEFINITIONS. In this chapter:

(1) "Extreme risk protective order" means a written order, warrant, or executive order issued by a court or signed by a magistrate or other court officer that:

(A) has the primary purpose of reducing the risk of death or injury related to a firearm by:

(i) prohibiting a person from owning, possessing, or receiving a firearm; or

(ii) requiring a person to surrender a firearm or otherwise removing a firearm from a person; and

(B) is not issued on the basis of conduct constituting an offense engaged in by the person who is the subject of the order.

(2) "Firearm" has the meaning assigned by Section

1 46.01, Penal Code.

2 Art. 7C.002. LOCAL REGULATION PROHIBITED. (a) This
3 article applies to:

4 (1) the State of Texas, including an agency,
5 department, commission, bureau, board, office, council, court, or
6 other entity that is in any branch of state government and that is
7 created by the constitution or a statute of this state, including a
8 university system or a system of higher education;

9 (2) the governing body of a municipality, county, or
10 special district or authority;

11 (3) an officer, employee, or other body that is part of
12 a municipality, county, or special district or authority, including
13 a sheriff, municipal police department, municipal attorney, or
14 county attorney; and

15 (4) a district attorney or criminal district attorney.

16 (b) An entity described by Subsection (a) may not adopt or
17 enforce a rule, ordinance, order, policy, or other similar measure
18 relating to an extreme risk protective order unless state law
19 specifically authorizes the adoption and enforcement of such a
20 rule, ordinance, order, policy, or measure.

21 Art. 7C.003. CERTAIN FEDERAL LAWS UNENFORCEABLE. A federal
22 statute, order, rule, or regulation purporting to implement or
23 enforce an extreme risk protective order against a person in this
24 state that infringes on the person's right of due process, keeping
25 and bearing arms, or free speech protected by the United States
26 Constitution or the Texas Constitution is unenforceable as against
27 the public policy of this state and shall have no effect.

1 Art. 7C.004. ACCEPTING CERTAIN FEDERAL GRANTS PROHIBITED.

2 An entity described by Article 7C.002(a) may not accept federal
3 grant funds for the implementation or enforcement of a federal
4 statute, order, rule, or regulation purporting to implement or
5 enforce an extreme risk protective order against a person in this
6 state.

7 Art. 7C.005. OFFENSE. (a) A person commits an offense if
8 the person enforces or attempts to enforce an extreme risk
9 protective order against a person in this state, unless the order
10 was issued under the laws of this state.

11 (b) An offense under this article is a state jail felony.

12 SECTION 3. This Act takes effect on the 91st day after the
13 last day of the legislative session.