

BILL ANALYSIS

S.B. 48
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Orders for emergency protection and protective and temporary ex parte orders may be issued in family violence, sexual assault, human trafficking, and stalking cases. Variations in the forms used can result in delays when the Department of Public Safety (DPS) updates information regarding persons prohibited from possessing firearms into the FBI's National Instant Criminal Background Check System, which could allow an abuser to pass a background check and have deadly consequences for a person under the court's protection. S.B. 48 seeks to address this issue by requiring the creation and use of standardized forms for the issuance of protective orders, magistrate's orders for emergency protection, and temporary ex parte orders. This would enable DPS to transfer information regarding these orders quickly and efficiently and help better protect the lives of crime victims.

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

S.B. 48 amends the Government Code to require the Office of Court Administration (OCA) to develop and make available on OCA's website standardized forms and other materials necessary to apply for, issue, deny, revise, rescind, serve, and enforce a protective order, magistrate's order for emergency protection, or a temporary ex parte order. The bill requires OCA, as soon as practicable after the bill's effective date, but not later than June 1, 2024, to create and make available on OCA's website all required forms and materials. If OCA completes the forms and materials before that date, OCA must notify each court clerk, judge, magistrate, and prosecution agency in Texas of the availability of the forms and materials.

S.B. 48 requires each standardized form to include 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 developed materials to include a procedure to ensure that a copy of the order is transmitted to all required parties and all relevant information is entered into the statewide law enforcement information system maintained by the Department of Public Safety and any other applicable databases.

S.B. 48 requires OCA, in developing the required applications, forms, and materials, to consult with certain individuals, organizations, and state agencies that have knowledge and experience in the issues of protective orders and give consideration to promoting uniformity of law among

the states that enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

S.B. 48 amends the Code of Criminal Procedure and Family Code to require a person filing an application for a protective order to use the standardized application form available on the OCA website and to require a court or magistrate issuing a protective order, order for emergency protection, or temporary ex parte order to use the applicable standardized order form. The bill establishes that a court's or magistrate's failure to use such a form does not affect the validity or enforceability of the order issued.

S.B. 48 applies only to an application for a protective order that is filed on or after June 1, 2024 and only to a protective order, magistrate's order for emergency protection, or temporary ex parte order that is issued on or after June 1, 2024.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.