88R3680 MCF-D

By:  Reynolds H.B. No. 847

A BILL TO BE ENTITLED

AN ACT

relating to the storage of firearms surrendered by a person subject to a magistrate's order for emergency protection or protective order as a result of family violence, sexual assault or abuse, stalking, or trafficking of persons.

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

SECTION 1.  Article 7B.006(a), Code of Criminal Procedure, is amended to read as follows:

(a)  Each protective order issued under this subchapter, including a temporary ex parte order, must contain the following prominently displayed statements in boldfaced type, in capital letters, or underlined:

"A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS $500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

"IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER ANY FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE LOCATION AS PROVIDED BY SECTION 85.0221, FAMILY CODE, FOR THE DURATION OF THIS ORDER."

SECTION 2.  Article 17.292(g), Code of Criminal Procedure, is amended to read as follows:

(g)  An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS $4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH.  AN ACT THAT RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE, AS APPLICABLE, IN ADDITION TO A VIOLATION OF THIS ORDER.  IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS.  THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER ANY FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE LOCATION AS PROVIDED BY SECTION 85.0221, FAMILY CODE, FOR THE DURATION OF THIS ORDER."

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER.  DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

SECTION 3.  Subchapter B, Chapter 85, Family Code, is amended by adding Section 85.0221 to read as follows:

Sec. 85.0221.  PROVISIONS FOR SURRENDER OF FIREARM BY PERSON SUBJECT TO PROTECTIVE ORDER. (a) The commissioners court of each county shall designate a secure location to store firearms surrendered under this section.

(b)  A person subject to a protective order under this chapter or Chapter 7B, Code of Criminal Procedure, or a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, may surrender a firearm possessed by the person to the secure location designated by the commissioners court in the county in which the person resides. A person responsible for the administration of the designated secure location shall accept the firearm and store it in the secure location until the expiration of the protective order. A person who accepts a surrendered firearm shall immediately provide the person surrendering the firearm a written copy of the receipt for the firearm and a written notice of the procedure for the return of the firearm.

(c)  Unless otherwise prohibited by law from possessing a firearm, a person who surrenders a firearm under Subsection (b) is entitled to the return of the firearm on the expiration of the protective order and after making a request to the person responsible for administering the secure location to which the firearm was surrendered.

(d)  If the firearm is not requested before the 61st day after the date the protective order expires, the commissioners court shall order the firearm destroyed, sold at public sale by an auctioneer licensed under Chapter 1802, Occupations Code, or forfeited to the state for use by a law enforcement agency in the county. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a firearm at public sale under this subsection. Proceeds from the sale of an unclaimed firearm under this subsection, after deduction of auction costs, shall be deposited in the county treasury in a special fund to be used to administer the secure location for the surrender of firearms under this section. An expenditure from the fund may be made only in accordance with a budget approved by the commissioners court.

SECTION 4.  Section 85.026(a), Family Code, is amended to read as follows:

(a)  Each protective order issued under this subtitle, including a temporary ex parte order, must contain the following prominently displayed statements in boldfaced type, capital letters, or underlined:

"A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS $500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER.  DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

"IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION. A PERSON SUBJECT TO THIS ORDER MAY SURRENDER ANY FIREARMS IN THE PERSON'S POSSESSION TO A DESIGNATED SECURE LOCATION AS PROVIDED BY SECTION 85.0221, FAMILY CODE, FOR THE DURATION OF THIS ORDER."

"IF A PERSON SUBJECT TO A PROTECTIVE ORDER IS RELEASED FROM CONFINEMENT OR IMPRISONMENT FOLLOWING THE DATE THE ORDER WOULD HAVE EXPIRED, OR IF THE ORDER WOULD HAVE EXPIRED NOT LATER THAN THE FIRST ANNIVERSARY OF THE DATE THE PERSON IS RELEASED FROM CONFINEMENT OR IMPRISONMENT, THE ORDER IS AUTOMATICALLY EXTENDED TO EXPIRE ON:

"(1)  THE FIRST ANNIVERSARY OF THE DATE THE PERSON IS RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR IMPRISONMENT FOR A TERM OF MORE THAN FIVE YEARS; OR

"(2)  THE SECOND ANNIVERSARY OF THE DATE THE PERSON IS RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR IMPRISONMENT FOR A TERM OF FIVE YEARS OR LESS."

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS $4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH.  AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE.  IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS."

SECTION 5.  (a) The commissioners court of each county shall designate a secure location for the storage of surrendered firearms, as required by this Act, not later than December 1, 2023, and shall begin accepting surrendered firearms on January 1, 2024.

(b)  The change in law made by this Act relating to the contents of a protective order or a magistrate's order for emergency protection applies to an order issued on or after January 1, 2024. An order issued before that date is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 6.  This Act takes effect September 1, 2023.