By:  Zaffirini S.B. No. 48

(In the Senate - Filed November 14, 2022; February 15, 2023, read first time and referred to Committee on Jurisprudence; March 27, 2023, reported favorably by the following vote: Yeas 5, Nays 0; March 27, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hughes            X

Johnson              X

Creighton            X

Hinojosa             X

Middleton            X

A BILL TO BE ENTITLED

AN ACT

relating to standardized forms and materials for the issuance of protective orders, magistrate's orders for emergency protection, and temporary ex parte orders.

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

SECTION 1.  Article 7B.001, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c)  A person filing an application under this article shall use the protective order application form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, that is available on the office's Internet website.

SECTION 2.  Subchapter A, Chapter 7B, Code of Criminal Procedure, is amended by adding Article 7B.0021 to read as follows:

Art. 7B.0021.  STANDARD TEMPORARY EX PARTE ORDER FORM. (a) The court shall use the standardized temporary ex parte order form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, to issue a temporary ex parte order under Article 7B.002.

(b)  A court's failure to use the standardized temporary ex parte order form as required under Subsection (a) does not affect the validity or enforceability of the temporary ex parte order issued.

SECTION 3.  Article 7B.003, Code of Criminal Procedure, is amended by adding Subsections (d) and (e) to read as follows:

(d)  The court shall use the standardized protective order form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, to issue a protective order under this article.

(e)  A court's failure to use the standardized protective order form as required under Subsection (d) does not affect the validity or enforceability of the protective order issued.

SECTION 4.  Article 17.292, Code of Criminal Procedure, is amended by adding Subsections (d-1) and (d-2) to read as follows:

(d-1)  The magistrate shall use the standardized order for emergency protection form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, to issue an order for emergency protection under this article.

(d-2)  A magistrate's failure to use the standardized order for emergency protection form as required under Subsection (d-1) does not affect the validity or enforceability of the order for emergency protection issued.

SECTION 5.  Section 82.004, Family Code, is amended to read as follows:

Sec. 82.004.  FORM AND CONTENT [~~CONTENTS~~] OF APPLICATION. A person filing an application under this chapter shall use the protective order application form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, that is available on the office's Internet website, and shall include in the application [~~An application must state~~]:

(1)  the name and county of residence of each applicant;

(2)  the name and county of residence of each individual alleged to have committed family violence;

(3)  the relationships between the applicants and the individual alleged to have committed family violence;

(4)  a request for one or more protective orders; and

(5)  whether an applicant is receiving services from the Title IV-D agency in connection with a child support case and, if known, the agency case number for each open case.

SECTION 6.  Chapter 83, Family Code, is amended by adding Section 83.007 to read as follows:

Sec. 83.007.  STANDARD TEMPORARY EX PARTE ORDER FORM. (a) The court shall use the standardized temporary ex parte order form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, to issue a temporary ex parte order under this chapter.

(b)  A court's failure to use the standardized temporary ex parte order form as required under Subsection (a) does not affect the validity or enforceability of the temporary ex parte order issued.

SECTION 7.  Subchapter B, Chapter 85, Family Code, is amended by adding Section 85.0221 to read as follows:

Sec. 85.0221.  STANDARD PROTECTIVE ORDER FORM. (a) The court shall use the standardized protective order form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, to issue a protective order under this chapter.

(b)  A court's failure to use the standardized protective order form as required under Subsection (a) does not affect the validity or enforceability of the protective order issued.

SECTION 8.  Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.039 to read as follows:

Sec. 72.039.  PROTECTIVE ORDER APPLICATIONS, FORMS, AND MATERIALS. (a) The office shall develop and make available on the office's Internet website standardized forms and other materials necessary to apply for, issue, deny, revise, rescind, serve, and enforce any of the following:

(1)  a protective order under Title 4, Family Code, or Subchapter A, Chapter 7B, Code of Criminal Procedure;

(2)  a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure; or

(3)  a temporary ex parte order under Chapter 83, Family Code, or Article 7B.002, Code of Criminal Procedure.

(b)  Each standardized form developed under Subsection (a) to be used by a magistrate or court issuing an order must include:

(1)  the prohibitions and requirements imposed on the respondent;

(2)  the duration of the order;

(3)  the potential consequences of violating the order; and

(4)  any other admonishments or warnings required by law.

(c)  The materials developed under Subsection (a) must include a procedure to ensure that a copy of the order is transmitted to all required parties and all relevant information required by Section 411.042(b)(6) is entered into the statewide law enforcement information system maintained by the Department of Public Safety under Section 411.042 and any other applicable databases.

(d)  In developing the required applications, forms, and materials, the office shall:

(1)  consult with individuals, organizations, and state agencies that have knowledge and experience in the issues of protective orders, including:

(A)  the Texas Council on Family Violence;

(B)  the Department of Public Safety;

(C)  nonprofit organizations that advocate for the survivors of sexual assault or family violence;

(D)  individuals, organizations, and state agencies that provide training to judges, prosecutors, and law enforcement officers;

(E)  the judges or justices of courts of varying jurisdictions;

(F)  law enforcement agencies;

(G)  prosecutors; and

(H)  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; and

(2)  give consideration to promoting uniformity of law among the states that enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

SECTION 9.  As soon as practicable after the effective date of this Act, but not later than June 1, 2024, the Office of Court Administration of the Texas Judicial System shall create and make available on the office's Internet website all forms and materials required by Section 72.039, Government Code, as added by this Act. If the office completes the forms and materials required by Section 72.039, Government Code, as added by this Act, before June 1, 2024, the office shall notify each court clerk, judge, magistrate, and prosecution agency in the state of the availability of the forms and materials.

SECTION 10.  Article 7B.001, Code of Criminal Procedure, as amended by this Act, and Section 82.004, Family Code, as amended by this Act, apply only to an application for a protective order that is filed on or after June 1, 2024. An application for a protective order filed before June 1, 2024, is governed by the law in effect on the date the application is filed, and the former law is continued in effect for that purpose.

SECTION 11.  Articles 7B.003 and 17.292, Code of Criminal Procedure, as amended by this Act, Article 7B.0021, Code of Criminal Procedure, as added by this Act, and Sections 83.007 and 85.0221, Family Code, as added by this Act, apply 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. An order issued before June 1, 2024, is governed by the law in effect on the date the order is issued, and the former law is continued in effect for that purpose.

SECTION 12.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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