

By: Hayes

H.B. No. 4336

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the prohibition of a person who is the subject of a  
3 family violence protective order or arrested for or charged with an  
4 offense involving family violence to surrender firearms owned by  
5 the person.

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

7 SECTION 1. Section 85.022(b), Family Code, is amended to  
8 read as follows:

9 (b) In a protective order, the court may prohibit the person  
10 found to have committed family violence from:

11 (1) committing family violence;

12 (2) communicating:

13 (A) directly with a person protected by an order  
14 or a member of the family or household of a person protected by an  
15 order, in a threatening or harassing manner;

16 (B) a threat through any person to a person  
17 protected by an order or a member of the family or household of a  
18 person protected by an order; and

19 (C) if the court finds good cause, in any manner  
20 with a person protected by an order or a member of the family or  
21 household of a person protected by an order, except through the  
22 party's attorney or a person appointed by the court;

23 (3) going to or near the residence or place of  
24 employment or business of a person protected by an order or a member

1 of the family or household of a person protected by an order;

2 (4) going to or near the residence, child-care  
3 facility, or school a child protected under the order normally  
4 attends or in which the child normally resides;

5 (5) engaging in conduct directed specifically toward a  
6 person who is a person protected by an order or a member of the  
7 family or household of a person protected by an order, including  
8 following the person, that is reasonably likely to harass, annoy,  
9 alarm, abuse, torment, or embarrass the person; and

10 ~~(6) possessing a firearm, unless the person is a peace~~  
11 ~~officer, as defined by Section 1.07, Penal Code, actively engaged~~  
12 ~~in employment as a sworn, full-time paid employee of a state agency~~  
13 ~~or political subdivision; and~~

14 ~~(7)~~(6) harming, threatening, or interfering with the  
15 care, custody, or control of a pet, companion animal, or assistance  
16 animal, as defined by Section 121.002, Human Resources Code, that  
17 is possessed by or is in the actual or constructive care of a person  
18 protected by an order or by a member of the family or household of a  
19 person protected by an order.

20 SECTION 2. Section 85.022 (d), Family Code, is repealed.

21 SECTION 3. Section 85.026 (a), Family Code, is amended to  
22 read as follows:

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

27 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR

1 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN  
2 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

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

8 ~~"IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS  
9 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT  
10 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL  
11 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A  
12 FIREARM OR AMMUNITION."~~

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

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

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

24 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED  
25 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY  
26 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT  
27 RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE

1 MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A  
2 SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON  
3 FOR AT LEAST TWO YEARS."

4 SECTION 4. The change in law made by this Act applies only  
5 to an offense committed on or after the effective date of this Act.  
6 An offense committed before the effective date of this Act is  
7 governed by the law in effect on the date the offense was committed,  
8 and the former law is continued in effect for that purpose. For  
9 purposes of this section, an offense was committed before the  
10 effective date of this Act if any element of the offense occurred  
11 before that date.

12 SECTION 5. This Act takes effect September 1, 2023.