

BILL ANALYSIS

Senate Research Center

S.B. 1362
By: Hughes
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 162, known as the Anti-Red Flag Act, safeguards Texans' constitutional rights by banning the recognition or enforcement of red flag orders, also called extreme risk protective orders (ERPOs), in Texas. It reinforces Texas' commitment to protecting the rights of law-abiding citizens while ensuring due process for all Texans.

The Anti-Red Flag Act prevents all governmental entities in Texas from recognizing or enforcing red flag orders unless explicitly authorized by Texas law. Furthermore, the bill prohibits Texas entities from accepting federal funds to enforce red flag laws in the state. Finally, the bill makes it a state jail felony for anyone to enforce a red flag order against a person in Texas, unless the order was issued under Texas law.

S.B. 1362 amends current law relating to prohibiting the recognition, service, and enforcement of extreme risk protective orders and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires this Act to be known as the "Anti-Red Flag Act."

SECTION 2. Amends Title 1, Code of Criminal Procedure, by adding Chapter 7C, as follows:

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

Art. 7C.001. DEFINITIONS. Defines "extreme risk protective order" and "firearm."

Art. 7C.002. LOCAL REGULATION PROHIBITED. (a) Provides that this article applies to:

- (1) the State of Texas, including an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or a system of higher education;
- (2) the governing body of a municipality, county, or special district or authority;
- (3) an officer, employee, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and
- (4) a district attorney or criminal district attorney.

(b) Prohibits an entity described by Subsection (a) from adopting or enforcing a rule, ordinance, order, policy, or other similar measure relating to an extreme risk protective order unless state law specifically authorizes the adoption and enforcement of such a rule, ordinance, order, policy, or measure.

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

Art. 7C.004. ACCEPTING CERTAIN FEDERAL GRANTS PROHIBITED. Prohibits an entity described by Article 7C.002(a) from accepting federal grant funds for the implementation, service, or enforcement of a federal statute, order, rule, or regulation purporting to implement or enforce an extreme risk protective order against a person in this state.

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

(b) Provides that an offense under this article is a state jail felony.

Art. 7C.006. INAPPLICABILITY. Provides that this chapter does not apply to a protective order issued under the Family Code or the Code of Criminal Procedure or to a protective order issued under the laws of another state that is recognized or enforceable under the Family Code or the Code of Criminal Procedure.

SECTION 3. Effective date: September 1, 2025.