

A BILL TO BE ENTITLED

AN ACT

relating to extreme risk protective orders; creating criminal offenses.

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

SECTION 1. Chapter 7B, Code of Criminal Procedure, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. EXTREME RISK PROTECTIVE ORDER

Art. 7B.151. DEFINITIONS. In this subchapter:

(1) "Bodily injury" and "serious bodily injury" have the meanings assigned by Section 1.07, Penal Code.

(2) "Family," "family violence," and "household" have the meanings assigned by Chapter 71, Family Code.

(3) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(4) "Local mental health authority" has the meaning assigned by Section 571.003, Health and Safety Code.

(5) "Serious mental illness" has the meaning assigned by Section 1355.001, Insurance Code.

Art. 7B.152. APPLICATION FOR EXTREME RISK PROTECTIVE ORDER.

(a) An application for a protective order under this subchapter may be filed by:

(1) a member of the respondent's family or household;

(2) a parent, guardian, or conservator of a person who

is:

1 (A) under 18 years of age; and

2 (B) a member of the respondent's family or
3 household; or

4 (3) a peace officer.

5 (b) An application must:

6 (1) include:

7 (A) detailed allegations, based on personal
8 knowledge of a person described by Subsection (a), regarding any
9 dangerous behavior or conduct exhibited by the respondent as a
10 result of a serious mental illness, including any behavior or
11 conduct related to the respondent's use of firearms;

12 (B) any relevant medical or mental health
13 information concerning the respondent, including copies of
14 relevant medical or mental health records, if available;

15 (C) information concerning the quantity, type,
16 and location of any firearms the applicant believes to be in the
17 respondent's possession or control, if any;

18 (D) any other relevant facts indicating a need
19 for a protective order under this subchapter; and

20 (E) a statement that the applicant believes the
21 respondent poses an immediate and present danger of causing bodily
22 injury, serious bodily injury, or death to any person, including
23 the respondent, as a result of the respondent's serious mental
24 illness and access to firearms; and

25 (2) be signed by the applicant under an oath that, to
26 the knowledge and belief of the applicant, the facts and
27 circumstances contained in the application are true.

1 (c) An application for a protective order under this
2 subchapter may be filed in a district court, juvenile court having
3 the jurisdiction of a district court, statutory county court, or
4 constitutional county court in the county in which the applicant or
5 the respondent resides.

6 Art. 7B.153. CONFIDENTIALITY OF CERTAIN INFORMATION. On
7 receiving an application containing specific medical or mental
8 health information concerning the respondent, the court shall order
9 the clerk to:

10 (1) strike the information from the public records of
11 the court; and

12 (2) maintain a confidential record of the information
13 for use only by the court.

14 Art. 7B.154. TEMPORARY EX PARTE ORDER. (a) If the court
15 finds from the information contained in an application for a
16 protective order under this subchapter that there is reasonable
17 cause to believe that the respondent poses an immediate and present
18 danger of causing bodily injury, serious bodily injury, or death to
19 any person, including the respondent, as a result of the
20 respondent's serious mental illness and access to firearms, the
21 court, without further notice to the respondent and without a
22 hearing, may issue a temporary ex parte order prohibiting the
23 respondent from purchasing, owning, possessing, or controlling a
24 firearm.

25 (b) In a temporary ex parte order, the court may order the
26 respondent to:

27 (1) not later than 24 hours after the time the order is

1 issued, relinquish any firearms owned by or in the actual or
2 constructive possession or control of the respondent to a law
3 enforcement agency for holding in the manner provided by Article
4 18.192;

5 (2) if applicable, surrender to the court the
6 respondent's license to carry a handgun issued under Subchapter H,
7 Chapter 411, Government Code; and

8 (3) for purposes of determining whether the respondent
9 has a serious mental illness, submit to an examination by the local
10 mental health authority or a disinterested expert who is qualified
11 to diagnose, and experienced in diagnosing, mental illness.

12 Art. 7B.155. HEARING; ISSUANCE OF PROTECTIVE ORDER. (a)
13 Not later than the 14th day after the later of the date an
14 application is filed or the date a temporary ex parte order is
15 issued, the court shall hold a hearing on the issuance of the
16 protective order.

17 (b) The court shall provide personal notice of the hearing
18 to the respondent.

19 (c) In determining whether to issue a protective order under
20 this article, the court:

21 (1) shall consider:

22 (A) the results of an examination described by
23 Article 7B.154(b)(3);

24 (B) any relevant medical or mental health
25 information concerning the respondent;

26 (C) any history of threats or acts of violence by
27 the respondent directed at any person, including the respondent;

1 (D) any history of the respondent using,
2 attempting to use, or threatening to use physical force against
3 another person;

4 (E) any recent violation by the respondent of an
5 order issued:

6 (i) under another provision of this chapter
7 or under Article 17.292;

8 (ii) under Section 6.504 or Chapter 85,
9 Family Code;

10 (iii) under Chapter 83, Family Code, if the
11 temporary ex parte order has been served on the respondent; or

12 (iv) by another jurisdiction as provided by
13 Chapter 88, Family Code;

14 (F) any arrest or conviction of the respondent
15 for:

16 (i) an offense under Section 42.072, Penal
17 Code; or

18 (ii) an offense involving violence,
19 including family violence;

20 (G) any conviction of the respondent for an
21 offense under Section 42.09, 42.091, or 42.092, Penal Code; and

22 (H) evidence related to the respondent's current
23 or recent abuse of a controlled substance or alcohol, not including
24 any evidence of previous treatment for or recovery from abusing a
25 controlled substance or alcohol; and

26 (2) may consider any other relevant factor including:

27 (A) any previous violation by the respondent of

1 an order described by Subdivision (1)(E); and

2 (B) evidence regarding the respondent's recent
3 acquisition of firearms, ammunition, or other deadly weapons.

4 (d) At the close of the hearing, if the court finds by clear
5 and convincing evidence that the respondent poses an immediate and
6 present danger of causing bodily injury, serious bodily injury, or
7 death to any person, including the respondent, as a result of the
8 respondent's serious mental illness and access to firearms, the
9 court shall issue a protective order that includes a statement of
10 the required finding.

11 (e) If the court does not make the finding described by
12 Subsection (d), the court shall, as applicable, rescind any
13 temporary ex parte order issued under Article 7B.154 and return the
14 respondent's license to carry a handgun.

15 Art. 7B.156. CONTENTS OF PROTECTIVE ORDER. In a protective
16 order issued under Article 7B.155, the court shall:

17 (1) prohibit the person who is subject to the order
18 from purchasing, owning, possessing, or controlling a firearm for
19 the duration of the order;

20 (2) order the person to:

21 (A) not later than 24 hours after the time the
22 order is issued, relinquish any firearms owned by or in the actual
23 or constructive possession or control of the person to a law
24 enforcement agency for holding in the manner provided by Article
25 18.192;

26 (B) if applicable, surrender to the court the
27 person's license to carry a handgun issued under Subchapter H,

1 Chapter 411, Government Code; and

2 (C) if applicable, receive outpatient mental
3 health services if recommended by the local mental health authority
4 or expert after the authority or expert performs an examination
5 described by Article 7B.154(b)(3); and

6 (3) suspend a license to carry a handgun issued under
7 Subchapter H, Chapter 411, Government Code, that is held by the
8 person.

9 Art. 7B.157. DURATION OF PROTECTIVE ORDER. (a) A
10 protective order issued under Article 7B.155 is effective until the
11 first anniversary of the date the order was issued.

12 (b) The court may renew a protective order issued under
13 Article 7B.155 for a period not to exceed one year after the order's
14 original expiration date. Before renewing the order the court must
15 hold a hearing after providing personal notice of the hearing to the
16 person who is the subject of the order.

17 (c) A person who is the subject of a protective order may
18 file a motion not earlier than the 91st day after the date on which
19 the order was initially issued or renewed, as applicable,
20 requesting that the court review the order and determine whether
21 there is a continuing need for the order. After a hearing on the
22 motion, if the court fails to make the finding that there is no
23 continuing need for the order, the order remains in effect until the
24 date the order expires as provided by this article.

25 (d) At a hearing to renew or rescind a protective order
26 under this article, the court shall consider the factors described
27 by Article 7B.155(c).

Art. 7B.158. NOTICE TO DEPARTMENT OF PUBLIC SAFETY. (a)

Not later than 24 hours after the time a protective order is issued under Article 7B.155, the clerk of the issuing court shall provide the following to the Department of Public Safety:

(1) the complete name, race, and sex of the person who is the subject of the order;

(2) any known identifying number of the person, including a social security number, driver's license number, or state identification number;

(3) the person's date of birth;

(4) if surrendered to the court, the person's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code; and

(5) a copy of the order suspending the person's license to carry a handgun under Subchapter H, Chapter 411, Government Code.

(b) On receipt of an order suspending a license to carry a handgun, the Department of Public Safety shall:

(1) record the suspension of the license in the records of the department;

(2) report the suspension to local law enforcement agencies, as appropriate; and

(3) if the license was not surrendered to the court, demand surrender of the suspended license from the license holder.

(c) Not later than the 30th day after the date the protective order is rescinded or expires under Article 7B.157, the clerk of the issuing court shall notify the Department of Public

1 Safety of the rescission or expiration, as applicable.

2 Art. 7B.159. APPLICATION OF OTHER LAW. Except as otherwise
3 provided by this subchapter and to the extent applicable, Title 4,
4 Family Code, applies to a protective order issued under this
5 subchapter.

6 SECTION 2. Chapter 18, Code of Criminal Procedure, is
7 amended by adding Article 18.192 to read as follows:

8 Art. 18.192. HOLDING AND DISPOSITION OF FIREARM
9 RELINQUISHED UNDER EXTREME RISK PROTECTIVE ORDER. (a) A law
10 enforcement officer who takes possession of a firearm from a person
11 who is the subject of an extreme risk protective order issued under
12 Subchapter D, Chapter 7B, shall immediately provide the person with
13 a written copy of the receipt for the firearm and a written notice
14 of the procedure for the return of a firearm under this article.

15 (b) Not later than the seventh day after the date a firearm
16 subject to disposition under this article is received, the law
17 enforcement agency holding the firearm shall notify the court that
18 issued the extreme risk protective order that the person who is the
19 subject of the order has relinquished the firearm.

20 (c) Not later than the 30th day after the date the extreme
21 risk protective order is rescinded or expires, the clerk of the
22 court shall notify the law enforcement agency of the rescission or
23 expiration.

24 (d) Not later than the 30th day after the date the law
25 enforcement agency holding a firearm subject to disposition under
26 this article receives the notice described by Subsection (c), the
27 law enforcement agency shall conduct a check of state and national

1 criminal history record information to verify whether the person
2 may lawfully possess a firearm under 18 U.S.C. Section 922(g) and
3 under the law of this state.

4 (e) If the check conducted under Subsection (d) verifies
5 that the person may lawfully possess a firearm, the law enforcement
6 agency shall provide to the person by certified mail written notice
7 stating that the firearm may be returned to the person if the person
8 submits a written request before the 121st day after the date of the
9 notice.

10 (f) An unclaimed firearm that is received under an extreme
11 risk protective order issued under Subchapter D, Chapter 7B, may
12 not be destroyed or forfeited to the state.

13 (g) The law enforcement agency holding the firearm may
14 provide for the firearm to be sold by a firearms dealer licensed
15 under 18 U.S.C. Section 923 if:

16 (1) the check conducted under Subsection (d) shows
17 that the person may not lawfully possess a firearm; or

18 (2) the notice is provided under Subsection (e) and
19 the person does not submit, before the 121st day after the date of
20 the notice, a written request for the return of the firearm.

21 (h) The proceeds from the sale of a firearm under this
22 article shall be paid to the owner of the seized firearm, less the
23 cost of administering this article with respect to the firearm.

24 SECTION 3. Subchapter D, Chapter 411, Government Code, is
25 amended by adding Section 411.0522 to read as follows:

26 Sec. 411.0522. INFORMATION CONCERNING EXTREME RISK
27 PROTECTIVE ORDER. (a) The department by rule shall establish a

1 procedure to provide information concerning a person who is the
2 subject of an extreme risk protective order issued under Subchapter
3 D, Chapter 7B, Code of Criminal Procedure, to the Federal Bureau of
4 Investigation for inclusion in the National Instant Criminal
5 Background Check System.

6 (b) The procedure must require the department to provide any
7 information received under Article 7B.158, Code of Criminal
8 Procedure, to the Federal Bureau of Investigation not later than 24
9 hours after the time the department received the information.

10 SECTION 4. Section 411.172(a), Government Code, is amended
11 to read as follows:

12 (a) A person is eligible for a license to carry a handgun if
13 the person:

14 (1) is a legal resident of this state for the six-month
15 period preceding the date of application under this subchapter or
16 is otherwise eligible for a license under Section 411.173(a);

17 (2) is at least 21 years of age;

18 (3) has not been convicted of a felony;

19 (4) is not charged with the commission of a Class A or
20 Class B misdemeanor or equivalent offense, or of an offense under
21 Section 42.01, Penal Code, or equivalent offense, or of a felony
22 under an information or indictment;

23 (5) is not a fugitive from justice for a felony or a
24 Class A or Class B misdemeanor or equivalent offense;

25 (6) is not a chemically dependent person;

26 (7) is not incapable of exercising sound judgment with
27 respect to the proper use and storage of a handgun;

1 (8) has not, in the five years preceding the date of
2 application, been convicted of a Class A or Class B misdemeanor or
3 equivalent offense or of an offense under Section 42.01, Penal
4 Code, or equivalent offense;

5 (9) is fully qualified under applicable federal and
6 state law to purchase a handgun;

7 (10) has not been finally determined to be delinquent
8 in making a child support payment administered or collected by the
9 attorney general;

10 (11) has not been finally determined to be delinquent
11 in the payment of a tax or other money collected by the comptroller,
12 the tax collector of a political subdivision of the state, or any
13 agency or subdivision of the state;

14 (12) is not currently:

15 (A) restricted under a court protective order,
16 including an extreme risk protective order issued under Subchapter
17 D, Chapter 7B, Code of Criminal Procedure; or

18 (B) subject to a restraining order affecting the
19 spousal relationship, other than a restraining order solely
20 affecting property interests;

21 (13) has not, in the 10 years preceding the date of
22 application, been adjudicated as having engaged in delinquent
23 conduct violating a penal law of the grade of felony; and

24 (14) has not made any material misrepresentation, or
25 failed to disclose any material fact, in an application submitted
26 pursuant to Section 411.174.

27 SECTION 5. Sections 411.187(a) and (c), Government Code,

1 are amended to read as follows:

2 (a) The department shall suspend a license under this
3 section if the license holder:

4 (1) is charged with the commission of a Class A or
5 Class B misdemeanor or equivalent offense, or of an offense under
6 Section 42.01, Penal Code, or equivalent offense, or of a felony
7 under an information or indictment;

8 (2) fails to notify the department of a change of
9 address, name, or status as required by Section 411.181;

10 (3) commits an act of family violence and is the
11 subject of an active protective order rendered under Title 4,
12 Family Code; ~~or~~

13 (4) is arrested for an offense involving family
14 violence or an offense under Section 42.072, Penal Code, and is the
15 subject of an order for emergency protection issued under Article
16 17.292, Code of Criminal Procedure; or

17 (5) is the subject of an active protective order
18 issued under Subchapter D, Chapter 7B, Code of Criminal Procedure.

19 (c) The department shall suspend a license under this
20 section:

21 (1) for 30 days, if the person's license is subject to
22 suspension for the ~~[a]~~ reason listed in Subsection (a)(2) ~~[(3), or~~
23 ~~(4), except as provided by Subdivision (2)]~~;

24 (2) ~~[for not less than one year and not more than three~~
25 ~~years, if the person's license:~~

26 ~~[(A) is subject to suspension for a reason listed~~
27 ~~in Subsection (a), other than the reason listed in Subsection~~

1 ~~(a)(1), and~~

2 ~~[(B) has been previously suspended for the same~~
3 ~~reason,~~

4 ~~[(3)]~~ until dismissal of the charges, if the person's
5 license is subject to suspension for the reason listed in
6 Subsection (a)(1); or

7 (3) ~~[(4)]~~ for the duration of or the period specified
8 by:

9 (A) the protective order issued under Title 4,
10 Family Code, if the person's license is subject to suspension for
11 the reason listed in Subsection (a)(3) ~~[(a)(5)]~~; ~~or]~~

12 (B) the order for emergency protection issued
13 under Article 17.292, Code of Criminal Procedure, if the person's
14 license is subject to suspension for the reason listed in
15 Subsection (a)(4); or

16 (C) the extreme risk protective order issued
17 under Subchapter D, Chapter 7B, Code of Criminal Procedure, if the
18 person's license is subject to suspension for the reason listed in
19 Subsection (a)(5) [(a)(6)].

20 SECTION 6. Chapter 37, Penal Code, is amended by adding
21 Section 37.083 to read as follows:

22 Sec. 37.083. FALSE REPORT REGARDING REQUEST FOR EXTREME
23 RISK PROTECTIVE ORDER. (a) A person commits an offense if, with
24 intent to deceive, the person makes a statement that the person
25 knows to be false to a peace officer relating to a request that the
26 officer file an application for an extreme risk protective order
27 under Subchapter D, Chapter 7B, Code of Criminal Procedure.

1 (b) An offense under this section is a Class B misdemeanor.

2 (c) If conduct that constitutes an offense under this
3 section also constitutes an offense under another law, the actor
4 may be prosecuted under this section, the other law, or both.

5 SECTION 7. Section 46.04, Penal Code, is amended by adding
6 Subsection (c-1) and amending Subsection (e) to read as follows:

7 (c-1) A person commits an offense if, after receiving notice
8 that the person is subject to an extreme risk protective order
9 issued under Subchapter D, Chapter 7B, Code of Criminal Procedure,
10 and before rescission or expiration of the order, the person
11 purchases, owns, possesses, or controls a firearm in violation of
12 the order.

13 (e) An offense under Subsection (a) is a felony of the third
14 degree. An offense under Subsection (a-1), (b), ~~(c)~~, or (c-1)
15 is a Class A misdemeanor.

16 SECTION 8. Not later than October 1, 2025, the Department of
17 Public Safety shall adopt rules as required by Section 411.0522,
18 Government Code, as added by this Act.

19 SECTION 9. To the extent of any conflict, this Act prevails
20 over another Act of the 89th Legislature, Regular Session, 2025,
21 relating to nonsubstantive additions to and corrections in enacted
22 codes.

23 SECTION 10. This Act takes effect September 1, 2025.