

By: Bryant

H.B. No. 2570

A BILL TO BE ENTITLED

AN ACT

relating to extreme risk protective orders and certain other protective orders prohibiting possession of a firearm; creating criminal offenses.

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

SECTION 1. Article 7B.005(a), Code of Criminal Procedure, is amended to read as follows:

(a) In a protective order issued under this subchapter, the court may:

(1) order the alleged offender to take action as specified by the court that the court determines is necessary or appropriate to prevent or reduce the likelihood of future harm to the applicant or a member of the applicant's family or household; or

(2) prohibit the alleged offender from:

(A) communicating:

(i) directly or indirectly with the applicant or any member of the applicant's family or household in a threatening or harassing manner; or

(ii) in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court, if the court finds good cause for the prohibition;

(B) going to or near the residence, place of employment or business, or child-care facility or school of the

applicant or any member of the applicant's family or household;

(C) engaging in conduct directed specifically toward the applicant or any member of the applicant's family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person;

(D) possessing a firearm, unless the alleged offender possesses the firearm for the actual discharge of the alleged offender's official duties as:

(i) [is] a peace officer, as defined by Section 1.07, Penal Code; or

(ii) a member of the armed forces or state military forces, as defined by Section 431.001, Government Code [~~actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision~~]; and

(E) tracking or monitoring personal property or a motor vehicle in the possession of the applicant or of a member of the applicant's family or household, without the applicant's effective consent, including by:

(i) using a tracking application on a personal electronic device in the possession of the applicant or the family or household member or using a tracking device; or

(ii) physically following the applicant or the family or household member or causing another to physically follow the applicant or member.

SECTION 2. 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 WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION, OTHER THAN A PERSON WHO POSSESSES A FIREARM FOR THE ACTUAL DISCHARGE OF THE PERSON'S OFFICIAL DUTIES AS A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, OR AS A MEMBER OF THE ARMED FORCES OR STATE MILITARY FORCES, AS DEFINED BY SECTION 431.001, GOVERNMENT 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~~]."

SECTION 3. 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.

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

3 (3) "Firearm" has the meaning assigned by Section
4 46.01, Penal Code.

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

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

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

9 (2) a parent, guardian, or conservator of a person who
10 is:

11 (A) under 18 years of age; and

12 (B) a member of the respondent's family or
13 household; or

14 (3) a peace officer.

15 (b) An application must:

16 (1) include:

17 (A) detailed allegations, based on personal
18 knowledge of a person described by Subsection (a), regarding any
19 dangerous behavior or conduct exhibited by the respondent,
20 including any behavior or conduct related to the respondent's use
21 of firearms;

22 (B) information concerning the quantity, type,
23 and location of any firearms the applicant believes to be in the
24 respondent's possession or control, if any;

25 (C) any other relevant facts indicating a need
26 for a protective order under this subchapter; and

27 (D) a statement that the applicant believes the

1 respondent poses an immediate and present danger of causing bodily
2 injury, serious bodily injury, or death to any person, including
3 the respondent, as a result of the respondent's access to firearms;
4 and

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

8 (c) An application for a protective order under this
9 subchapter may be filed in a district court, juvenile court having
10 the jurisdiction of a district court, statutory county court, or
11 constitutional county court in the county in which the applicant or
12 the respondent resides.

13 Art. 7B.153. CONFIDENTIALITY OF CERTAIN INFORMATION. On
14 receiving an application containing specific health information
15 concerning the respondent, the court shall order the clerk to:

16 (1) strike the information from the public records of
17 the court; and

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

20 Art. 7B.154. TEMPORARY EX PARTE ORDER. (a) If the court
21 finds from the information contained in an application for a
22 protective order under this subchapter that there is reasonable
23 cause to believe that the respondent poses an immediate and present
24 danger of causing bodily injury, serious bodily injury, or death to
25 any person, including the respondent, as a result of the
26 respondent's access to firearms, the court, without further notice
27 to the respondent and without a hearing, may issue a temporary ex

parte order prohibiting the respondent from purchasing, owning, possessing, or controlling a firearm.

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

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

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

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

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

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

(1) shall consider:

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

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

1 (C) any recent violation by the respondent of an
2 order issued:

3 (i) under another provision of this chapter
4 or under Article 17.292;

5 (ii) under Section 6.504 or Chapter 85,
6 Family Code;

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

9 (iv) by another jurisdiction as provided by
10 Chapter 88, Family Code;

11 (D) any arrest or conviction of the respondent
12 for:

13 (i) an offense under Section 42.072, Penal
14 Code; or

15 (ii) an offense involving violence,
16 including family violence;

17 (E) any conviction of the respondent for an
18 offense under Section 42.09, 42.091, or 42.092, Penal Code; and

19 (F) evidence related to the respondent's current
20 or recent abuse of a controlled substance or alcohol, not including
21 any evidence of previous treatment for or recovery from abusing a
22 controlled substance or alcohol; and

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

24 (A) any previous violation by the respondent of
25 an order described by Subdivision (1)(C); and

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

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

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

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

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

16 (2) order the person to:

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

22 (B) if applicable, surrender to the court the
23 person's license to carry a handgun issued under Subchapter H,
24 Chapter 411, Government Code; and

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

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

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

9 (c) A person who is the subject of a protective order may
10 file a motion not earlier than the 91st day after the date on which
11 the order was initially issued or renewed, as applicable,
12 requesting that the court review the order and determine whether
13 there is a continuing need for the order. After a hearing on the
14 motion, if the court fails to make the finding that there is no
15 continuing need for the order, the order remains in effect until the
16 date the order expires as provided by this article.

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

20 Art. 7B.158. NOTICE TO DEPARTMENT OF PUBLIC SAFETY. (a)
21 Not later than 24 hours after the time a protective order is issued
22 under Article 7B.155, the clerk of the issuing court shall provide
23 the following to the Department of Public Safety:

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

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

1 state identification number;

2 (3) the person's date of birth;

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

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

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

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

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

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

17 (c) Not later than the 30th day after the date the
18 protective order is rescinded or expires under Article 7B.157, the
19 clerk of the issuing court shall notify the Department of Public
20 Safety of the rescission or expiration, as applicable.

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

25 SECTION 4. Articles 17.292(c) and (g), Code of Criminal
26 Procedure, are amended to read as follows:

27 (c) The magistrate in the order for emergency protection may

1 prohibit the arrested party from:

2 (1) committing:

3 (A) family violence or an assault on the person
4 protected under the order; or

5 (B) an act in furtherance of an offense under
6 Section 20A.02 or 42.072, Penal Code;

7 (2) communicating:

8 (A) directly with a member of the family or
9 household or with the person protected under the order in a
10 threatening or harassing manner;

11 (B) a threat through any person to a member of the
12 family or household or to the person protected under the order; or

13 (C) if the magistrate finds good cause, in any
14 manner with a person protected under the order or a member of the
15 family or household of a person protected under the order, except
16 through the party's attorney or a person appointed by the court;

17 (3) going to or near:

18 (A) the residence, place of employment, or
19 business of a member of the family or household or of the person
20 protected under the order; or

21 (B) the residence, child care facility, or school
22 where a child protected under the order resides or attends;

23 (4) possessing a firearm, unless the person possesses
24 the firearm for the actual discharge of the person's official
25 duties as:

26 (A) [is] a peace officer, as defined by Section
27 1.07, Penal Code; or

1 (B) a member of the armed forces or state
2 military forces, as defined by Section 431.001, Government Code [~~7~~
3 ~~actively engaged in employment as a sworn, full-time paid employee~~
4 ~~of a state agency or political subdivision]~~; or

5 (5) tracking or monitoring personal property or a
6 motor vehicle in the possession of the person protected under the
7 order or of a member of the family or household of the person
8 protected under the order, without the protected person's effective
9 consent, including by:

10 (A) using a tracking application on a personal
11 electronic device in the possession of the person or the family or
12 household member or using a tracking device; or

13 (B) physically following the person or the family
14 or household member or causing another to physically follow the
15 person or member.

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

19 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED
20 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY
21 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT
22 RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE
23 MISDEMEANOR OR FELONY OFFENSE, AS APPLICABLE, IN ADDITION TO A
24 VIOLATION OF THIS ORDER. IF THE ACT IS PROSECUTED AS A SEPARATE
25 FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT
26 LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER
27 THAN A PERSON WHO POSSESSES A FIREARM FOR THE ACTUAL DISCHARGE OF

1 THE PERSON'S OFFICIAL DUTIES AS A PEACE OFFICER, AS DEFINED BY
2 SECTION 1.07, PENAL CODE, OR AS A MEMBER OF THE ARMED FORCES OR
3 STATE MILITARY FORCES, AS DEFINED BY SECTION 431.001, GOVERNMENT
4 CODE [~~ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID~~
5 ~~EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION~~], WHO IS
6 SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE
7 PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.

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

13 SECTION 5. Chapter 18, Code of Criminal Procedure, is
14 amended by adding Article 18.192 to read as follows:

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

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

27 (c) Not later than the 30th day after the date the extreme

1 risk protective order is rescinded or expires, the clerk of the
2 court shall notify the law enforcement agency of the rescission or
3 expiration.

4 (d) Not later than the 30th day after the date the law
5 enforcement agency holding a firearm subject to disposition under
6 this article receives the notice described by Subsection (c), the
7 law enforcement agency shall conduct a check of state and national
8 criminal history record information to verify whether the person
9 may lawfully possess a firearm under 18 U.S.C. Section 922(g) and
10 under the law of this state.

11 (e) If the check conducted under Subsection (d) verifies
12 that the person may lawfully possess a firearm, the law enforcement
13 agency shall provide to the person by certified mail written notice
14 stating that the firearm may be returned to the person if the person
15 submits a written request before the 121st day after the date of the
16 notice.

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

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

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

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

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

4 SECTION 6. Section 85.022(b), Family Code, is amended to
5 read as follows:

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

8 (1) committing family violence;

9 (2) communicating:

10 (A) directly with a person protected by an order
11 or a member of the family or household of a person protected by an
12 order, in a threatening or harassing manner;

13 (B) a threat through any person to a person
14 protected by an order or a member of the family or household of a
15 person protected by an order; and

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

20 (3) going to or near the residence or place of
21 employment or business of a person protected by an order or a member
22 of the family or household of a person protected by an order;

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

26 (5) engaging in conduct directed specifically toward a
27 person who is a person protected by an order or a member of the

family or household of a person protected by an order, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person;

(6) possessing a firearm, unless the person possesses the firearm for the actual discharge of the person's official duties as:

(A) ~~[is]~~ a peace officer, as defined by Section 1.07, Penal Code; or

(B) a member of the armed forces or state military forces, as defined by Section 431.001, Government Code [~~actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision~~];

(7) harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, that is possessed by or is in the actual or constructive care of a person protected by an order or by a member of the family or household of a person protected by an order; and

(8) tracking or monitoring personal property or a motor vehicle in the possession of a person protected by an order or of a member of the family or household of a person protected by an order, without the person's effective consent, including by:

(A) using a tracking application on a personal electronic device in the possession of the person or the family or household member or using a tracking device; or

(B) physically following the person or the family or household member or causing another to physically follow the

1 person or member.

2 SECTION 7. Section 85.026(a), Family Code, is amended to
3 read as follows:

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

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

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

16 "IT IS UNLAWFUL FOR ANY PERSON WHO IS SUBJECT TO A PROTECTIVE
17 ORDER TO POSSESS A FIREARM OR AMMUNITION, OTHER THAN A PERSON WHO
18 POSSESSES A FIREARM FOR THE ACTUAL DISCHARGE OF THE PERSON'S
19 OFFICIAL DUTIES AS A PEACE OFFICER, AS DEFINED BY SECTION 1.07,
20 PENAL CODE, OR AS A MEMBER OF THE ARMED FORCES OR STATE MILITARY
21 FORCES, AS DEFINED BY SECTION 431.001, GOVERNMENT CODE [~~ACTIVELY~~
22 ~~ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE~~
23 ~~AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE~~
24 ~~ORDER TO POSSESS A FIREARM OR AMMUNITION~~]."

25 "IF A PERSON SUBJECT TO A PROTECTIVE ORDER IS RELEASED FROM
26 CONFINEMENT OR IMPRISONMENT FOLLOWING THE DATE THE ORDER WOULD HAVE
27 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 8. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.0522 to read as follows:

Sec. 411.0522. INFORMATION CONCERNING EXTREME RISK PROTECTIVE ORDER. (a) The department by rule shall establish a procedure to provide information concerning a person who is the subject of an extreme risk protective order issued under Subchapter D, Chapter 7B, Code of Criminal Procedure, to the Federal Bureau of Investigation for inclusion in the National Instant Criminal Background Check System.

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

1 hours after the time the department received the information.

2 SECTION 9. Section 411.172(a), Government Code, is amended
3 to read as follows:

4 (a) A person is eligible for a license to carry a handgun if
5 the person:

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

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

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

11 (4) is not charged with the commission of a Class A or
12 Class B misdemeanor or equivalent offense, or of an offense under
13 Section 42.01, Penal Code, or equivalent offense, or of a felony
14 under an information or indictment;

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

17 (6) is not a chemically dependent person;

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

20 (8) has not, in the five years preceding the date of
21 application, been convicted of a Class A or Class B misdemeanor or
22 equivalent offense or of an offense under Section 42.01, Penal
23 Code, or equivalent offense;

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

26 (10) has not been finally determined to be delinquent
27 in making a child support payment administered or collected by the

1 attorney general;

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

6 (12) is not currently:

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

10 (B) subject to a restraining order affecting the
11 spousal relationship, other than a restraining order solely
12 affecting property interests;

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

16 (14) has not made any material misrepresentation, or
17 failed to disclose any material fact, in an application submitted
18 pursuant to Section 411.174.

19 SECTION 10. Sections 411.187(a) and (c), Government Code,
20 are amended to read as follows:

21 (a) The department shall suspend a license under this
22 section if the license holder:

23 (1) is charged with the commission of a Class A or
24 Class B misdemeanor or equivalent offense, or of an offense under
25 Section 42.01, Penal Code, or equivalent offense, or of a felony
26 under an information or indictment;

27 (2) fails to notify the department of a change of

address, name, or status as required by Section 411.181;

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

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

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

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

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

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

~~[(A) is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1), and~~

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

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

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

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

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

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

SECTION 11. Chapter [37](#), Penal Code, is amended by adding Section 37.083 to read as follows:

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

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

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

SECTION 12. Section [46.04](#), Penal Code, is amended by amending Subsections (c) and (e) and adding Subsections (c-1) and (c-2) to read as follows:

(c) A person [~~, other than a peace officer, as defined by~~

1 ~~Section 1.07, actively engaged in employment as a sworn, full-time~~
2 ~~paid employee of a state agency or political subdivision,~~] who is
3 subject to an order issued under Section 6.504 or Chapter 85, Family
4 Code, under Article 17.292 or Subchapter A, Chapter 7B, Code of
5 Criminal Procedure, or by another jurisdiction as provided by
6 Chapter 88, Family Code, commits an offense if the person possesses
7 a firearm after receiving notice of the order and before expiration
8 of the order.

9 (c-1) It is a defense to prosecution under Subsection (c)
10 that the actor possessed the firearm for the actual discharge of
11 official duties as:

12 (1) a peace officer, as defined by Section 1.07; or
13 (2) a member of the armed forces or state military
14 forces, as defined by Section 431.001, Government Code.

15 (c-2) A person commits an offense if, after receiving notice
16 that the person is subject to an extreme risk protective order
17 issued under Subchapter D, Chapter 7B, Code of Criminal Procedure,
18 and before rescission or expiration of the order, the person
19 purchases, owns, possesses, or controls a firearm in violation of
20 the order.

21 (e) An offense under Subsection (a) is a felony of the third
22 degree. An offense under Subsection (a-1), (b), ~~[or]~~ (c), or (c-2)
23 is a Class A misdemeanor.

24 SECTION 13. Not later than October 1, 2025, the Department
25 of Public Safety shall adopt rules as required by Section 411.0522,
26 Government Code, as added by this Act.

27 SECTION 14. The change in law made by this Act relating to

1 the contents of a protective order or a magistrate's order for
2 emergency protection applies to an order issued on or after the
3 effective date of this Act. An order issued before that date is
4 governed by the law as it existed immediately before the effective
5 date of this Act, and the former law is continued in effect for that
6 purpose.

7 SECTION 15. Section 46.04, Penal Code, as amended by this
8 Act, applies only to an offense committed on or after the effective
9 date of this Act. An offense committed before the effective date of
10 this Act is governed by the law in effect on the date the offense was
11 committed, and the former law is continued in effect for that
12 purpose. For purposes of this section, an offense was committed
13 before the effective date of this Act if any element of the offense
14 occurred before that date.

15 SECTION 16. To the extent of any conflict, this Act prevails
16 over another Act of the 89th Legislature, Regular Session, 2025,
17 relating to nonsubstantive additions to and corrections in enacted
18 codes.

19 SECTION 17. This Act takes effect September 1, 2025.