

CHAPTER 115

S.B. No. 638

An Act relating to temporary court orders in suits for dissolution of marriage and suits affecting the parent-child relationship; amending the Family Code, as amended, by amending Subsection (c) and adding Subsections (g), (h), and (i), Section 3.58, and adding Subsections (e), (f), and (g), Section 11.11; and amending the headings of Section 11.11 and Section 3.58.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3.58, Family Code, is amended by amending Subsection (c) and adding Subsections (g), (h), and (i) to read as follows:

“(c) After a petition for divorce or annulment or to declare a marriage void is filed, the court, on the motion of any party or on the court’s own motion, may *make any appropriate order, including the granting of [grant]* a temporary injunction, after notice and hearing, for the preservation of the property and protection of the parties as deemed necessary and equitable, including but not limited to an order directed to one or both parties:

“(1) requiring a sworn inventory and appraisal of all property, both real and personal, owned or claimed by the parties, and a list of all debts and liabilities owed by the parties (the form, manner, and substance of the inventory and appraisal and list of debts and liabilities to be specified by the court);

“(2) requiring the support of either of the spouses;

“(3) requiring the production of books, papers, documents, and tangible things by any party;

“(4) ordering payment of reasonable attorney’s fees and expenses;

“(5) appointing a receiver for the preservation and protection of the property of the parties;

“(6) awarding one spouse exclusive occupancy of the residence during the pendency of the case;

“(7) prohibiting the parties, or either of them, from the spending of funds beyond what the court determines to be for reasonable and necessary living expenses; or

“(8) awarding one spouse exclusive control of a party’s usual business or occupation.”

“(g) *An order issued under this section, except an order appointing a receiver, is not subject to interlocutory appeal.*

“(h) *Within 30 days after the date that an appeal is perfected, on the motion of any party or on the court’s own motion, after notice and hearing, the court may make any order necessary for the preservation of the property and for the protection of the parties during the pendency of the appeal as the court may deem necessary and equitable. In addition to other matters, an order may:*

“(1) *require the support of either of the spouses;*

“(2) *require the payment of reasonable attorney’s fees and expenses;*

“(3) *appoint a receiver for the preservation and protection of the property of the parties; or*

“(4) *award one spouse exclusive occupancy of the parties’ residence pending the appeal.*

“(i) *The court retains jurisdiction to enforce orders entered under Subsection (h) of this section unless the appellate court, on a proper showing, supersedes the court’s orders.*”

SECTION 2. The heading to Section 3.58, Family Code, as amended, is amended to read as follows: “Section 3.58. **TEMPORARY ORDERS BEFORE JUDGMENT OR AFTER APPEAL.**”

SECTION 3. Section 11.11, Family Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

“(e) *Within 30 days after the date an appeal is perfected, on the motion of any party or on the court’s own motion, after notice and hearing, the court may make any order necessary to preserve and protect the safety and welfare of the child during the pendency of the appeal as the court may deem necessary and equitable. In addition to other matters, an order may:*

“(1) *appoint temporary conservators for the child and provide for possession of the child;*

“(2) *require the temporary support of the child by any party;*

“(3) *restrain any party from molesting or disturbing the peace of the child or another party;*

“(4) *prohibit a person from removing the child beyond a geographical area identified by the court;*

“(5) *require payment of reasonable attorney’s fees and expenses; or*

“(6) *suspend the operation of the order, judgment, or decree that is being appealed.*

“(f) *A court retains jurisdiction to enforce its orders entered under Subsection (e) of this section unless the appellate court, on a proper showing, supersedes the court’s order.*

“(g) *Temporary orders entered under this section are not subject to interlocutory appeal.*”

SECTION 4. The heading to Section 11.11, Family Code, is amended to read as follows: “Section 11.11. **TEMPORARY ORDERS BEFORE JUDGMENT OR DURING APPEAL.**”

SECTION 5. This Act applies to orders made on or after its effective date.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 11, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 2, 1985, by the following vote: Yeas 137, Nays 1, one present not voting.

Approved: May 17, 1985

Effective: Immediately