

## CHAPTER 677

S.B. No. 887

## AN ACT

relating to protective orders and the elements of an offense of a violation of a protective order.

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

SECTION 1. Subsection (a), Section 3.581, Family Code, is amended to read as follows:

(a) On the motion of any party to a suit for divorce or annulment or to declare a marriage void, and on a showing that a party to the suit has committed family violence as defined by Section 71.01 of this code, the court may issue a protective order as provided by Sections 71.11(b), 71.111, and 71.16 [~~Subsection (b) of Section 71.11~~] of this code.

SECTION 2. Chapter 3, Family Code, as amended, is amended by adding Sections 3.582 and 3.583 to read as follows:

*Sec. 3.582. COPIES OF ORDERS. (a) A protective order made under Section 3.581 of this code shall be delivered to the person to whom the order applies in open court at the close of the hearing or served in the same manner as a writ of injunction.*

*(b) The clerk of the court issuing a protective order under Section 3.581 of this code shall send a copy of the order to the chief of police of the city where the member of the family or household protected by the order resides, if the person resides in a city, or to the sheriff of the county where the person resides, if the person does not reside in a city.*

*Sec. 3.583. DUTIES OF LAW ENFORCEMENT AGENCIES. In order to ensure that officers responding to calls are aware of the existence and terms of protective orders issued under Section 3.581 of this code, each municipal police department and sheriff shall establish procedures within the department or office to provide adequate information or access to information for law enforcement officers of the names of persons protected by orders issued under Section 3.581 of this code and of persons to whom protective orders are directed.*

SECTION 3. Subsections (c) and (d), Section 71.04, Family Code, are amended to read as follows:

(c) A person who was a member of a household [~~at the time the alleged family violence was committed~~] is not barred from filing an application or from protection under this chapter even if the person no longer resides in the same household with the person who is alleged to have committed the family violence.

(d) The fee for filing an application is \$16 and is to be paid to the clerk of the court in which the application is filed. If the applicant files a sworn statement that the applicant is unable to pay the filing fee and other court costs, the court, on a finding that the statement is true, shall waive the fee and costs that may be due or become due from the applicant. A hearing on the issue of the waiver of the fee and cost, if requested by a party or if required by the court, must be held *at the same time as the hearing on the application* [~~within three days of the request by a party or of the court's requirement~~].

SECTION 4. Subsection (c), Section 71.10, Family Code, is amended to read as follows:

(c) A protective order may apply only to an individual, including an applicant, who is a party to the proceeding and who:

(1) is found to have committed family violence; or

(2) has agreed to the order under Sections 71.12(a) and (b) [~~Section 71.12~~] of this code subject to the requirements of Section 71.12(c) of this code, if applicable.

SECTION 5. Section 71.111, Family Code, is amended to read as follows:

Sec. 71.111. CONFIDENTIALITY OF CERTAIN INFORMATION. On the request of a member of a family or household, the court may exclude from any protective, agreed, or temporary order under this chapter the address and telephone number of a person protected by the order, *specifying only the county of residence*, and order the clerk to strike that information from the public records of the court, and, if necessary, make a confidential record of that information for use only by the court.

SECTION 6. Section 71.12, Family Code, is amended by adding Subsection (c) to read as follows:

*(c) The court may not enter an order under this section that requires the applicant to do or refrain from doing an act listed under Section 71.11(b) of this code unless:*

- (1) the applicant, at least 48 hours before the time the court enters the order, receives notice by service of citation that the court intends to enter the order; and*
- (2) the court finds that the applicant has committed family violence.*

SECTION 7. Subsection (b), Section 71.16, Family Code, is amended to read as follows:

(b) Each protective order issued under this chapter, except a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

**"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE A MISDEMEANOR PUNISHABLE BY A FINE OF AS MUCH AS \$1,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY PUNISHABLE BY A FINE OF MORE THAN \$1,000 OR BY CONFINEMENT IN JAIL OR PRISON FOR MORE THAN SIX MONTHS, OR BOTH [FAMILY VIOLENCE MAY BE A CRIMINAL OFFENSE PUNISHABLE BY A FINE OF AS MUCH AS \$2,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH]."**

SECTION 8. Section 25.08, Penal Code, is amended by adding Subsections (e) and (f) to read as follows:

*(e) It is an exception to the application of this section that the person was the applicant for the order or is a person that the order is intended to protect.*

*(f) It is not a defense to prosecution under this section that certain information has been excluded, as provided by Section 71.111, Family Code, from an order to which this section applies.*

SECTION 9. This Act applies to an action in which a protective order was filed on or after the effective date of this Act. An action in which a protective order was filed before the effective date of this Act is governed by the law in effect at the time the protective order was filed and that law is continued in effect for this purpose.

SECTION 10. (a) The change in law made by Section 7 of this Act applies only to the prosecution of an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and that law is continued in effect for this purpose.

SECTION 11. This Act takes effect September 1, 1987.

SECTION 12. 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.

Passed the Senate on May 1, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on May 25, 1987, by a viva-voce vote. Passed the House, with amendment, on May 22, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.