

## BILL ANALYSIS

Senate Research Center  
77R8220 MCK-D

H.B. 919  
By: Goodman (West)  
Jurisprudence  
4/4/2001  
Engrossed

### DIGEST AND PURPOSE

In 1994, the United States Congress passed the Violence Against Women Act, which mandated that states give full faith and credit to protective orders. Although the 75th Texas Legislature passed legislation in response to this requirement by the federal government some confusion may exist regarding the application of these provisions. As proposed, H.B. 919 more specifically defines protective orders and establishes more specific provisions regarding the enforcement of protective orders from out of state by establishing the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

### 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. Amends Section 86.005, Family Code, to delete existing Subsections (b) and (c) regarding protective orders.

SECTION 2. Amends Chapter 88, Family Code, as follows:

#### CHAPTER 88. New heading: UNIFORM INTERSTATE ENFORCEMENT OF PROTECTIVE ORDERS ACT

Sec. 88.001. SHORT TITLE. Authorizes this chapter to be cited as the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Sec. 88.002. DEFINITIONS. Defines “foreign protective order,” “issuing state,” “mutual foreign protective order,” “protected individual,” “protective order,” “respondent,” “state,” and “tribunal.”

Sec. 88.003. JUDICIAL ENFORCEMENT OF ORDER. (a) Requires a tribunal of this state to enforce the terms of a foreign protective order, including a term that provides relief that a tribunal of this state would not have power to provide but for this section. Requires the tribunal to enforce the order regardless of whether the order was obtained by independent action or in another proceeding, if the order is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. Requires the tribunal, in a proceeding to enforce a foreign protective order, to follow the procedures of this state for the enforcement of protective orders.

(b) Requires a tribunal of this state to enforce the provisions of the foreign protective order that govern the possession of and access to a child if the provisions were issued in accordance with the jurisdictional requirements governing the issuance of possession and access orders in the issuing state.

(c) Authorizes a tribunal of this state to enforce a provision of the foreign protective order relating to child support if the order was issued in accordance with the jurisdictional requirements of Chapter 159 and the federal Full Faith and Credit for Child Support Orders Act, 28 U.S.C. Section 1738B, as amended.

(d) Provides that a foreign protective order is valid if the order meets certain specific criteria.

(e) Provides that a protected individual seeking enforcement of a foreign protective order establishes a prima facie case for its validity by presenting an order that is valid on its face.

(f) Provides that it is an affirmative defense in an action seeking enforcement of a foreign protective order that the order does not meet the requirements for a valid order under Subsection (d).

(g) Authorizes a tribunal of this state to enforce the provisions of a mutual foreign protective order that favor a respondent only if certain conditions are met.

Sec. 88.004. NONJUDICIAL ENFORCEMENT OF ORDER. (a) Requires a law enforcement officer of this state, on determining that there is probable cause to believe that a valid foreign protective order exists and that the order has been violated, to enforce the foreign protective order as if it were an order of a tribunal of this state. Provides that a law enforcement officer has probable cause to believe that a foreign protective order exists if the protected individual presents a foreign protective order that identifies both the protected individual and the respondent and on its face, is currently in effect.

(b) Authorizes a foreign protective order, for the purposes of this section, to be inscribed on a tangible medium or to be stored in an electronic or other medium if it is retrievable in a perceivable form. Provides that presentation of a certified copy of a protective order is not required for enforcement.

(c) Authorizes a law enforcement officer, if a protected individual does not present a foreign protective order, to determine that there is probable cause to believe that a valid foreign protective order exists by relying on any relevant information.

(d) Requires a law enforcement officer of this state who determines that an otherwise valid foreign protective order cannot be enforced because the respondent has not been notified or served with the order to inform the respondent of the order and make a reasonable effort to serve the order on the respondent. Requires the officer, after informing the respondent and attempting to serve the order, to allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

(e) Provides that the registration or filing of an order in this state is not required for the enforcement of a valid foreign protective order under this chapter.

Sec. 88.005. REGISTRATION OF ORDER. (a) Authorizes an individual to register a foreign protective order in this state. Requires an individual to take certain enumerated action to register a foreign protective order.

(b) Requires the agency responsible for the registration of protective orders, on receipt of a foreign protective order, to register the order in accordance with this section and furnish to the individual registering the order a certified copy of the registered order.

(c) Requires the agency responsible for the registration of protective orders to register

a foreign protective order on presentation of a copy of a protective order that has been certified by the issuing state. Requires a registered foreign protective order that is inaccurate or not currently in effect to be corrected or removed from the registry in accordance with the law of this state.

(d) Requires an individual registering a foreign protective order to file an affidavit made by the protected individual that, to the best of the protected individual's knowledge, the order is in effect.

(e) Authorizes a foreign protective order registered under this section to be entered in any existing state or federal registry of protective orders, in accordance with state or federal law.

(f) Prohibits a fee from being charged for the registration of a foreign protective order.

Sec. 88.006. IMMUNITY. Provides that a state or local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity is immune from civil and criminal liability for an act or omission arising from the registration or enforcement of a foreign protective order or the detention or arrest of a person alleged to have violated a foreign protective order if the act or omission was done in good faith in an effort to comply with this chapter.

Sec. 88.007. OTHER REMEDIES. Provides that a protected individual who pursues a remedy under this chapter is not precluded from pursuing other legal or equitable remedies against the respondent.

Sec. 88.008. UNIFORMITY OF APPLICATION AND CONSTRUCTION. Requires consideration, in applying and construing this chapter, to be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Deletes existing text and titles of Sections 88.001 - 88.004 regarding protective orders from another jurisdiction.

SECTION 3. Repealer: Section 71.008 (Protective Order From Another Jurisdiction), Family Code.

SECTION 4. Effective date: September 1, 2001.

Makes application of this Act prospective.