

BILL ANALYSIS

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S.B. 815
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a judge often issues a 14-day temporary restraining order to keep the status quo between the parties to a divorce until a hearing can be held to set rules for protection of the parties and the estate until the divorce is final. These orders can only be extended one time for another 14 days. While Section 6.501(a), Family Code, only covers 10 main activities to be addressed, courts have authority to restrain activities that are not listed.

The Texas Family Law Practice Manual has expanded those 10 points to cover more specifics, and lawyers and judges often use the manual to guide the development of the orders, even though the items are not listed in the statute. In addition, the current law has not been updated in many years to consider use of emails and other technology by which one party to a divorce may harass the other.

S.B. 815 is intended to bring Section 6.501 into the 21st century in order to deal with new forms of electronic documentation and communications, and to provide a more comprehensive list of the kinds of property and protections of the parties that a court may address.

The bill does not alter Section 6.501(b)(2), which allows spending of funds for reasonable and necessary living expenses, or engaging in acts reasonable and necessary to conduct that party's usual business and occupation. It allows each party to go about their daily lives and pay their bills pending further court action or parties' agreement.

As proposed, S.B. 815 amends current law relating to a temporary restraining order for preservation of property and protection of the parties in a suit for the dissolution of marriage.

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 6.501(a), Family Code, as follows:

(a) Authorizes the court, after the filing of a suit for dissolution of a marriage, on the motion of a party or on the court's own motion, to grant a temporary restraining order without notice to the adverse party for the preservation of the property and for the protection of the parties as necessary, including an order prohibiting one or both parties from:

(1) intentionally communicating in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or electronic messaging, with the other party by use of vulgar, profane, obscene, or indecent language or in a coarse or offensive manner, with intent to annoy or alarm the other party;

(2) threatening the other party in person or in any other manner, including by telephone or another electronic voice transmission, video chat, in writing, or

electronic messaging, to take unlawful action against any person, intending by this action to annoy or alarm the other party;

(3)-(5) Changes references to the other to the other party;

(6) Makes no change to this subdivision;

(7) intentionally falsifying a writing or record, including an electronic record, relating to the property of either party;

(8) intentionally misrepresenting or refusing to disclose to the other party or to the court, on proper request, the existence, amount, or location of any tangible or intellectual property of the parties or either party, including electronically stored or recorded information;

(9) intentionally or knowingly damaging or destroying the tangible or intellectual property of the parties or either party, including electronically stored or recorded information;

(10) intentionally or knowingly tampering with the tangible or intellectual property of the parties or either party, including electronically stored or recorded information, and causing pecuniary loss or substantial inconvenience to the other party;

(11) except as specifically authorized by the court:

(A) selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of the parties or either party, regardless of whether the property is personal property, real property, intellectual property, or separate or community property;

(B) incurring any debt, other than legal expenses in connection with the suit for dissolution of marriage;

(C) withdrawing money from any checking or savings account in a financial institution for any purpose;

(D) spending any money in either party's possession or subject to either party's control for any purpose;

(E) withdrawing or borrowing money in any manner for any purpose from a retirement, profit sharing, pension, death, or other employee benefit plan, employee savings plan, individual retirement account, or Keogh account of either party; or

(F) withdrawing or borrowing in any manner all or any part of the cash surrender value of a life insurance policy on the life of either party or a child of the parties;

(12) entering any safe deposit box in the name of or subject to the control of the parties or either party, whether individually or jointly with others;

(13) changing or in any manner altering the beneficiary designation on any life insurance policy on the life of either party or a child of the parties;

(14) canceling, altering, failing to renew or pay premiums on, or in any manner affecting the level of coverage that existed at the time the suit was filed of, any life, casualty, automobile, or health insurance policy insuring the parties' property or persons, including a child of the parties;

- (15) opening or diverting mail or e-mail or any other electronic communication addressed to the other party;
- (16) signing or endorsing the other party's name on any negotiable instrument, check, or draft, including a tax refund, insurance payment, and dividend, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party;
- (17) taking any action to terminate or limit credit or charge credit cards in the name of the other party;
- (18) discontinuing or reducing the withholding for federal income taxes from either party's wages or salary;
- (19) destroying, disposing of, or altering any financial records of the parties, including a canceled check, deposit slip, and other records from a financial institution, a record of credit purchases or cash advances, a tax return, and a financial statement;
- (20) destroying, disposing of, or altering any e-mail, text message, video message, or chat message or other electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium;
- (21) modifying, changing, or altering the native format or metadata of any electronic data or electronically stored information relevant to the subject matter of the suit for dissolution of marriage, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium;
- (22) deleting any data or content from any social network profile used or created by either party or a child of the parties;
- (23) using any password or personal identification number to gain access to the other party's e-mail account, bank account, social media account, or any other electronic account;
- (24) terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or any other contractual service, including security, pest control, landscaping, or yard maintenance at the residence of either party, or in any manner attempting to withdraw any deposit paid in connection with any of those services;
- (25) excluding the other party from the use and enjoyment of a specifically identified residence of the other party; or
- (26) entering, operating, or exercising control over a motor vehicle in the possession of the other party.

Makes nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.