

- SUBJECT:** Amending family violence protective order law
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, with amendments
- VOTE:** 6 ayes — Goodman, Cook, Brady, H. Cuellar, Naishtat, Van de Putte  
0 nays  
3 absent — De La Garza, Puente, Williamson
- WITNESSES:** For — Robert Green, Primary Nurturing Fathers of Texas and Texas Alliance of Fathers; Bree Buchanan, for clients of Legal Aid Society of Central Texas.  
  
Against — None
- BACKGROUND:** Family Code Title 4, enacted in 1979, allows victims of family violence to seek protective orders and temporary protective orders from a court. Violation of a protective order may be a criminal offense.  
  
The county attorney or criminal district attorney is responsible for filing protective order applications. District attorneys who assume this responsibility must notify the county attorney.  
  
Courts are required to dismiss protective order applications made by a party seeking a divorce, but the party may seek a restraining order by the court hearing the divorce petition.
- DIGEST:** HB 418 would require counties to designate a prosecuting attorney to file family violence protective order applications. If no designation was made, the district attorney would be responsible for filing these applications. A district attorney who assumed responsibility for the orders would be required to notify all local law enforcement entities of that fact.  
  
The bill would also prohibit a court from dismissing an application for a protective order solely because a divorce petition had been filed in another court. However, if the court hearing the divorce matter had itself issued or denied a temporary order, including a temporary protective order, the other

court could deny an application. A protective order would be valid and enforceable, pending further action by the court that rendered it, until superseded by another court.

The bill would amend the requirements for the warning statement printed on a protective order to reflect that violations of protective orders are currently a Class A misdemeanor. The warning section would be required to state that violation of the protective order was punishable by a maximum \$4,000 fine, up to one year in jail, or both.

The definition of "family" would be amended to conform to a definition in Government Code secs. 573.022 and 573.024 and include individuals related to a person's spouse (in-laws).

The bill also would repeal Family Code Chapter 72, dealing with delinquency or dependency of a child.

The bill would take effect on September 1, 1995.

**SUPPORTERS  
SAY:**

HB 418 proposes important changes to assure that the state provides the help needed by persons in danger of violence at the hands of family members. Courts now dismiss applications for temporary protective orders when a petition for divorce is filed in another court, creating a period in which the applicant is not protected by any court order. Often hearings in divorce matters can take up to a month. This creates a potentially dangerous situation for those who feel that they are in need of a protective order.

HB 418 would also clarify which prosecutor is responsible for family violence applications. This proposal came from a recommendation of the Interim Committee on Domestic Violence, which found that considerable confusion on this point had arisen.

HB 418 would clarify that in-laws are included in the definition of family, and also that references to protective orders mean all temporary orders, including protective orders. The required warning on the orders would be changed to conform to the fact that the 1993 Penal Code revisions reduced protective order violations to Class A misdemeanors. The repeal of

Chapter 72 is necessary to eliminate from the Family Code provisions that are now in the Penal Code or are archaic.

OPPONENTS  
SAY: No apparent opposition

NOTES: The committee amendment would expand the meaning of the definition of the term "temporary order."