

## **BILL ANALYSIS**

Senate Research Center  
77R2550 GWK-F

C.S.S.B. 199  
By: West  
Criminal Justice  
1/30/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Under current Texas law, it is an offense to sell or transfer a firearm to someone subject to a protective order, yet under current federal law, it is an offense to possess a firearm while under a protective order or after a misdemeanor family violence conviction. There are no state provisions that regulate the possession of a firearm while under a protective order or after certain family violence convictions. As proposed, C.S.S.B. 199 codifies into Texas statutes the federal prohibition against possession of a firearm by an individual under a protective order or after a conviction for certain family violence offenses and enhances local law enforcement's authority to regulate the possession of firearms by family violence offenders.

### **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 Sections 25.07(a),(b), and (g), Penal Code, as follows:

- (a) Provides that a person commits an offense if, in violation of an order issued under Section 6.504 or Chapter 85 (Issuance of Protective Order), Family Code, under Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88 (Protective Order From Another Jurisdiction), Family Code, the person knowingly or intentionally commits certain specific acts, including possessing a firearm.
- (b) Defines "family violence," "family," "household," "member of a household," and "firearm."
- (g) Provides that an offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the protective order by committing an assault or the offense of stalking, in which event the offense is a third degree felony.

SECTION 2. Amends Section 46.04, Penal Code, as follows:

- Sec. 46.04. New heading: UNLAWFUL POSSESSION OF FIREARM. (a) Provides that a person who has been convicted of a felony commits an offense if the person possesses a firearm under certain conditions.
- (b) Provides that a person who has been convicted of an offense under Section 22.01, punishable as a Class A misdemeanor and involving a member of the person's family or household, commits an offense if the person possesses a firearm before the fifth anniversary of the later of the date of the person's release from confinement following conviction of the misdemeanor; or the date of the person's release from community supervision following

conviction of the misdemeanor.

(c) Makes a conforming change.

(d) Defines “family,” “household,” and “member of a household.”

(e) Provides that an offense under Subsection (a), rather than this section, is a felony of the third degree. Provides that an offense under Subsection (b) or (c) is a Class A misdemeanor.

SECTION 3. Amends Section 85.022, Family Code, by amending Subsection (b) and adding Subsection (e), to make a conforming change. Defines “firearm.”

SECTION 4. Amends Subsections (c), (g) and (m), Article 17.292, Code of Criminal Procedure, to make conforming changes. Defines “family,” “family violence,” “household,” and “firearm.”

SECTION 5. Effective date: September 1, 2001.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1. Amends As Filed S. B. 199, Section 25.07(g), Penal Code, to delete previous new language pertaining to possessing a firearm.

SECTION 2. Amends As Filed S. B. 199, Section 46.04, Penal Code, as follows:

(a) Deletes previous new language pertaining to felonies described by Subsection (b).

(b) Deletes previous new language referencing Section 22.02. Replaces “confinement or imprisonment” with “as a Class A misdemeanor.” Sets forth a term during which a convicted person commits an offense by possessing a firearm.

(e) Stipulates levels of offense.

SECTION 3. No change.

SECTION 4. Deletes specific reference to penalties for certain offenses.

SECTION 5. No change.