

By: Meza, Garcia, Wu, Lujan, et al.

H.B. No. 1432

A BILL TO BE ENTITLED

AN ACT

1
2 relating to required findings for the issuance of a protective
3 order.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 81.001, Family Code, is amended to read
6 as follows:

7 Sec. 81.001. ENTITLEMENT TO PROTECTIVE ORDER. A court
8 shall render a protective order as provided by Section 85.001(b) if
9 the court finds that family violence has occurred [~~and is likely to~~
10 ~~occur in the future~~].

11 SECTION 2. Section 81.0015, Family Code, is amended to read
12 as follows:

13 Sec. 81.0015. PRESUMPTION. For purposes of this subtitle,
14 there is a presumption that family violence has occurred [~~and is~~
15 ~~likely to occur in the future~~] if:

16 (1) the respondent has been convicted of or placed on
17 deferred adjudication community supervision for any of the
18 following offenses against the child for whom the petition is
19 filed:

20 (A) an offense under Title 5, Penal Code, for
21 which the court has made an affirmative finding that the offense
22 involved family violence under Article 42.013, Code of Criminal
23 Procedure; or

24 (B) an offense under Title 6, Penal Code; and

1 (2) the respondent's parental rights with respect to
2 the child have been terminated[~~, and~~

3 ~~[(3) the respondent is seeking or attempting to seek~~
4 ~~contact with the child]~~.

5 SECTION 3. Sections 85.001(a), (b), and (c), Family Code,
6 are amended to read as follows:

7 (a) At the close of a hearing on an application for a
8 protective order, the court shall find whether[~~+~~

9 ~~[(1)] family violence has occurred[~~, and~~~~
10 ~~[(2) family violence is likely to occur in the future].~~

11 (b) If the court finds that family violence has occurred
12 ~~[and that family violence is likely to occur in the future]~~, the
13 court:

14 (1) shall render a protective order as provided by
15 Section 85.022 applying only to a person found to have committed
16 family violence; and

17 (2) may render a protective order as provided by
18 Section 85.021 applying to both parties that is in the best interest
19 of the person protected by the order or member of the family or
20 household of the person protected by the order.

21 (c) A protective order that requires the first applicant to
22 do or refrain from doing an act under Section 85.022 shall include a
23 finding that the first applicant has committed family violence [~~and~~
24 ~~is likely to commit family violence in the future]~~.

25 SECTION 4. Section 85.002, Family Code, is amended to read
26 as follows:

27 Sec. 85.002. EXCEPTION FOR VIOLATION OF EXPIRED PROTECTIVE

1 ORDER. If the court finds that a respondent violated a protective
2 order by committing an act prohibited by the order as provided by
3 Section 85.022, that the order was in effect at the time of the
4 violation, and that the order has expired after the date that the
5 violation occurred, the court, without the necessity of making the
6 finding [~~findings~~] described by Section 85.001(a), shall render a
7 protective order as provided by Section 85.022 applying only to the
8 respondent and may render a protective order as provided by Section
9 85.021.

10 SECTION 5. Section 85.025(a-1), Family Code, is amended to
11 read as follows:

12 (a-1) The court may render a protective order sufficient to
13 protect the applicant and members of the applicant's family or
14 household that is effective for a period that exceeds two years if
15 the court finds that the person who is the subject of the protective
16 order:

17 (1) committed an act constituting a felony offense
18 involving family violence against the applicant or a member of the
19 applicant's family or household, regardless of whether the person
20 has been charged with or convicted of the offense;

21 (2) caused serious bodily injury to the applicant or a
22 member of the applicant's family or household; or

23 (3) was the subject of two or more previous protective
24 orders rendered:

25 (A) to protect the person on whose behalf the
26 current protective order is sought; and

27 (B) after a finding by the court that the subject

1 of the protective order[+]

2 [(i)] has committed family violence[~~and~~

3 [~~(ii) is likely to commit family violence in~~
4 ~~the future~~].

5 SECTION 6. Article 7B.052, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 7B.052. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
8 ORDER. The court shall issue a protective order in the manner
9 provided by Title 4, Family Code, if, in lieu of the finding that
10 family violence occurred [~~and is likely to occur in the future~~] as
11 required by Section 85.001, Family Code, the court finds that:

12 (1) probable cause exists to believe that an offense
13 under Section 42.072, Penal Code, was committed; and

14 (2) the nature of the scheme or course of conduct
15 engaged in by the defendant in committing the offense indicates the
16 defendant is likely in the future to engage in conduct prohibited by
17 Section 42.072(a)(1), (2), or (3), Penal Code.

18 SECTION 7. Article 7B.102, Code of Criminal Procedure, is
19 amended to read as follows:

20 Art. 7B.102. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
21 ORDER. The court shall issue a protective order in the manner
22 provided by Title 4, Family Code, if, in lieu of the finding that
23 family violence occurred [~~and is likely to occur in the future~~] as
24 required by Section 85.001, Family Code, the court finds that:

25 (1) probable cause exists to believe that an offense
26 under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal
27 Code, was committed;

1 (2) the defendant committed the offense because of
2 bias or prejudice; and

3 (3) the nature of the scheme or course of conduct
4 engaged in by the defendant in committing the offense indicates the
5 defendant is likely in the future to:

6 (A) engage in conduct prohibited by Title 5,
7 Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code; and

8 (B) engage in that conduct described by Paragraph
9 (A) because of bias or prejudice.

10 SECTION 8. The changes in law made by this Act apply only to
11 a protective order rendered on or after the effective date of this
12 Act. A protective order rendered before the effective date of this
13 Act is governed by the law in effect on the date the order was
14 rendered, and the former law is continued in effect for that
15 purpose.

16 SECTION 9. This Act takes effect September 1, 2023.