

1-1 By: Laubenberg, et al. (Senate Sponsor - Uresti) H.B. No. 853
1-2 (In the Senate - Received from the House May 11, 2009;
1-3 May 11, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 22, 2009, reported favorably by the following vote:
1-5 Yeas 4, Nays 2; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to inclusion of pets and other companion animals in
1-9 protective orders; providing a penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 85.021, Family Code, is amended to read
1-12 as follows:

1-13 Sec. 85.021. REQUIREMENTS OF ORDER APPLYING TO ANY PARTY.

1-14 In a protective order, the court may:

1-15 (1) prohibit a party from:

1-16 (A) removing a child who is a member of the family
1-17 or household from:

1-18 (i) the possession of a person named in the
1-19 order; or

1-20 (ii) the jurisdiction of the court; ~~or~~

1-21 (B) transferring, encumbering, or otherwise
1-22 disposing of property, other than in the ordinary course of
1-23 business, that is mutually owned or leased by the parties; or

1-24 (C) removing a pet, companion animal, or
1-25 assistance animal, as defined by Section 121.002, Human Resources
1-26 Code, from the possession of a person named in the order;

1-27 (2) grant exclusive possession of a residence to a
1-28 party and, if appropriate, direct one or more parties to vacate the
1-29 residence if the residence:

1-30 (A) is jointly owned or leased by the party
1-31 receiving exclusive possession and a party being denied possession;

1-32 (B) is owned or leased by the party retaining
1-33 possession; or

1-34 (C) is owned or leased by the party being denied
1-35 possession and that party has an obligation to support the party or
1-36 a child of the party granted possession of the residence;

1-37 (3) provide for the possession of and access to a child
1-38 of a party if the person receiving possession of or access to the
1-39 child is a parent of the child;

1-40 (4) require the payment of support for a party or for a
1-41 child of a party if the person required to make the payment has an
1-42 obligation to support the other party or the child; or

1-43 (5) award to a party the use and possession of
1-44 specified property that is community property or jointly owned or
1-45 leased property.

1-46 SECTION 2. Section 85.022(b), Family Code, as amended by
1-47 Chapters 23 (S.B. 199) and 91 (S.B. 68), Acts of the 77th
1-48 Legislature, Regular Session, 2001, is amended to read as follows:

1-49 (b) In a protective order, the court may prohibit the person
1-50 found to have committed family violence from:

1-51 (1) committing family violence;

1-52 (2) communicating:

1-53 (A) directly with a person protected by an order
1-54 or a member of the family or household of a person protected by an
1-55 order, in a threatening or harassing manner;

1-56 (B) a threat through any person to a person
1-57 protected by an order or a member of the family or household of a
1-58 person protected by an order; and

1-59 (C) if the court finds good cause, in any manner
1-60 with a person protected by an order or a member of the family or
1-61 household of a person protected by an order, except through the
1-62 party's attorney or a person appointed by the court;

1-63 (3) going to or near the residence or place of
1-64 employment or business of a person protected by an order or a member

2-1 of the family or household of a person protected by an order;
2-2 (4) going to or near the residence, child-care
2-3 facility, or school a child protected under the order normally
2-4 attends or in which the child normally resides;

2-5 (5) engaging in conduct directed specifically toward a
2-6 person who is a person protected by an order or a member of the
2-7 family or household of a person protected by an order, including
2-8 following the person, that is reasonably likely to harass, annoy,
2-9 alarm, abuse, torment, or embarrass the person; ~~and~~

2-10 (6) possessing a firearm, unless the person is a peace
2-11 officer, as defined by Section 1.07, Penal Code, actively engaged
2-12 in employment as a sworn, full-time paid employee of a state agency
2-13 or political subdivision; and

2-14 (7) harming, threatening, or interfering with the
2-15 care, custody, or control of a pet, companion animal, or assistance
2-16 animal, as defined by Section 121.002, Human Resources Code, that
2-17 is possessed by a person protected by an order or by a member of the
2-18 family or household of a person protected by an order.

2-19 SECTION 3. Section 25.07(a), Penal Code, as amended by
2-20 Chapters 66 (S.B. 584) and 1113 (H.B. 3692), Acts of the 80th
2-21 Legislature, Regular Session, 2007, is reenacted and amended to
2-22 read as follows:

2-23 (a) A person commits an offense if, in violation of a
2-24 condition of bond set in a family violence case and related to the
2-25 safety of the victim or the safety of the community, an order issued
2-26 under Article 17.292, Code of Criminal Procedure, an order issued
2-27 under Section 6.504, Family Code, Chapter 83, Family Code, if the
2-28 temporary ex parte order has been served on the person, or Chapter
2-29 85, Family Code, or an order issued by another jurisdiction as
2-30 provided by Chapter 88, Family Code, the person knowingly or
2-31 intentionally:

2-32 (1) commits family violence or an act in furtherance
2-33 of an offense under Section 22.011, 22.021, or 42.072;

2-34 (2) communicates:
2-35 (A) directly with a protected individual or a
2-36 member of the family or household in a threatening or harassing
2-37 manner;

2-38 (B) a threat through any person to a protected
2-39 individual or a member of the family or household; or

2-40 (C) in any manner with the protected individual
2-41 or a member of the family or household except through the person's
2-42 attorney or a person appointed by the court, if the violation is of
2-43 an order described by this subsection and the order prohibits any
2-44 communication with a protected individual or a member of the family
2-45 or household;

2-46 (3) goes to or near any of the following places as
2-47 specifically described in the order or condition of bond:

2-48 (A) the residence or place of employment or
2-49 business of a protected individual or a member of the family or
2-50 household; or

2-51 (B) any child care facility, residence, or school
2-52 where a child protected by the order or condition of bond normally
2-53 resides or attends; ~~or~~

2-54 (4) possesses a firearm; or

2-55 (5) harms, threatens, or interferes with the care,
2-56 custody, or control of a pet, companion animal, or assistance
2-57 animal that is possessed by a person protected by the order.

2-58 SECTION 4. Section 25.07(b), Penal Code, is amended by
2-59 adding Subdivision (3) to read as follows:

2-60 (3) "Assistance animal" has the meaning assigned by
2-61 Section 121.002, Human Resources Code.

2-62 SECTION 5. This Act takes effect September 1, 2009.

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