

By: Bolton

H.B. No. 2797

A BILL TO BE ENTITLED

AN ACT

relating to family violence and protective orders.

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

SECTION 1. Chapter 81, Family Code, is amended by adding Section 81.010 to read as follows:

Sec. 81.010. COURT ENFORCEMENT. (a) A court of this state with jurisdiction of proceedings arising under this title may enforce a protective order rendered by another court in the same manner that the court that rendered the order could enforce the order, regardless of whether the order is transferred under Subchapter D, Chapter 85.

(b) A court's authority under this section includes the authority to enforce a protective order through contempt.

SECTION 2. Section 82.002(b), Family Code, is amended to read as follows:

(b) With regard to family violence under Section 71.004(3), an application for a protective order to protect the applicant may be filed by a [an adult] member of the dating relationship, regardless of whether the member is an adult or a child.

SECTION 3. Section 82.009, Family Code, is amended to read as follows:

Sec. 82.009. APPLICATION FOR TEMPORARY EX PARTE ORDER. (a) An application that requests the issuance of a temporary ex parte order under Chapter 83 must:

1 (1) contain a detailed description of the facts and
2 circumstances concerning the alleged family violence and the need
3 for the immediate protective order; and

4 (2) be signed by each applicant under an oath that the
5 facts and circumstances contained in the application are true to
6 the best knowledge and belief of each applicant.

7 (b) For purposes of this section, a statement signed under
8 oath by a child is valid if the statement otherwise complies with
9 this chapter.

10 SECTION 4. Section 83.006, Family Code, is amended by
11 adding Subsection (c) to read as follows:

12 (c) The court may recess the hearing on a temporary ex parte
13 order to contact the respondent by telephone and provide the
14 respondent the opportunity to be present when the court resumes the
15 hearing. Without regard to whether the respondent is able to be
16 present at the hearing, the court shall resume the hearing before
17 the end of the working day.

18 SECTION 5. Section 85.026(a), Family Code, is amended to
19 read as follows:

20 (a) Each protective order issued under this subtitle,
21 including a temporary ex parte order, must contain the following
22 prominently displayed statements in boldfaced type, capital
23 letters, or underlined:

24 " A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR
25 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN
26 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH. "

27 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS

1 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY
2 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS
3 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT
4 UNLESS A COURT CHANGES THE ORDER."

5 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS
6 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT
7 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL
8 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A
9 FIREARM OR AMMUNITION."

10 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED
11 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY
12 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT
13 RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE
14 MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A
15 SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON
16 FOR AT LEAST TWO YEARS."

17 SECTION 6. Section 261.001(1), Family Code, is amended to
18 read as follows:

19 (1) "Abuse" includes the following acts or omissions
20 by a person:

21 (A) mental or emotional injury to a child that
22 results in an observable and material impairment in the child's
23 growth, development, or psychological functioning;

24 (B) causing or permitting the child to be in a
25 situation in which the child sustains a mental or emotional injury
26 that results in an observable and material impairment in the
27 child's growth, development, or psychological functioning;

1 (C) physical injury that results in substantial
2 harm to the child, or the genuine threat of substantial harm from
3 physical injury to the child, including an injury that is at
4 variance with the history or explanation given and excluding an
5 accident or reasonable discipline by a parent, guardian, or
6 managing or possessory conservator that does not expose the child
7 to a substantial risk of harm;

8 (D) failure to make a reasonable effort to
9 prevent an action by another person that results in physical injury
10 that results in substantial harm to the child;

11 (E) sexual conduct harmful to a child's mental,
12 emotional, or physical welfare, including conduct that constitutes
13 the offense of continuous sexual abuse of young child or children
14 under Section 21.02, Penal Code, indecency with a child under
15 Section 21.11, Penal Code, sexual assault under Section 22.011,
16 Penal Code, or aggravated sexual assault under Section 22.021,
17 Penal Code;

18 (F) failure to make a reasonable effort to
19 prevent sexual conduct harmful to a child;

20 (G) compelling or encouraging the child to engage
21 in sexual conduct as defined by Section 43.01, Penal Code;

22 (H) causing, permitting, encouraging, engaging
23 in, or allowing the photographing, filming, or depicting of the
24 child if the person knew or should have known that the resulting
25 photograph, film, or depiction of the child is obscene as defined by
26 Section 43.21, Penal Code, or pornographic;

27 (I) the current use by a person of a controlled

1 substance as defined by Chapter 481, Health and Safety Code, in a
2 manner or to the extent that the use results in physical, mental, or
3 emotional injury to a child;

4 (J) causing, expressly permitting, or
5 encouraging a child to use a controlled substance as defined by
6 Chapter 481, Health and Safety Code; ~~or~~

7 (K) causing, permitting, encouraging, engaging
8 in, or allowing a sexual performance by a child as defined by
9 Section 43.25, Penal Code; or

10 (L) conduct defined as dating violence by Section
11 71.0021, if the conduct is directed against a child.

12 SECTION 7. Sections 83.007, 85.026(b), and 85.065(a) and
13 (b), Family Code, are repealed.

14 SECTION 8. (a) The changes in law made by this Act to
15 Sections 82.002 and 82.009, Family Code, apply only to an
16 application for a protective order that is filed on or after the
17 effective date of this Act. An application for a protective order
18 filed before the effective date of this Act is governed by the law
19 in effect on the date the application is filed, and the former law
20 is continued in effect for that purpose.

21 (b) The changes in law made by this Act to Section 85.026,
22 Family Code, apply only to a protective order issued on or after the
23 effective date of this Act. A protective order issued before the
24 effective date of this Act is governed by the law in effect on the
25 date the order is issued, and the former law is continued in effect
26 for that purpose.

27 SECTION 9. This Act takes effect September 1, 2009.