

SENATE AMENDMENTS

2nd Printing

By: Laubenberg, Rodriguez, Gutierrez,
Leibowitz, Chavez, et al.

H.B. No. 853

A BILL TO BE ENTITLED

1 AN ACT

2 relating to inclusion of pets and other companion animals in
3 protective orders; providing a penalty.

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

5 SECTION 1. Section 85.021, Family Code, is amended to read
6 as follows:

7 Sec. 85.021. REQUIREMENTS OF ORDER APPLYING TO ANY PARTY.

8 In a protective order, the court may:

9 (1) prohibit a party from:

10 (A) removing a child who is a member of the family
11 or household from:

12 (i) the possession of a person named in the
13 order; or

14 (ii) the jurisdiction of the court; [~~or~~]

15 (B) transferring, encumbering, or otherwise
16 disposing of property, other than in the ordinary course of
17 business, that is mutually owned or leased by the parties; or

18 (C) removing a pet, companion animal, or
19 assistance animal, as defined by Section 121.002, Human Resources
20 Code, from the possession of a person named in the order;

21 (2) grant exclusive possession of a residence to a
22 party and, if appropriate, direct one or more parties to vacate the
23 residence if the residence:

24 (A) is jointly owned or leased by the party

1 receiving exclusive possession and a party being denied possession;

2 (B) is owned or leased by the party retaining
3 possession; or

4 (C) is owned or leased by the party being denied
5 possession and that party has an obligation to support the party or
6 a child of the party granted possession of the residence;

7 (3) provide for the possession of and access to a child
8 of a party if the person receiving possession of or access to the
9 child is a parent of the child;

10 (4) require the payment of support for a party or for a
11 child of a party if the person required to make the payment has an
12 obligation to support the other party or the child; or

13 (5) award to a party the use and possession of
14 specified property that is community property or jointly owned or
15 leased property.

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

19 (b) In a protective order, the court may prohibit the person
20 found to have committed family violence from:

21 (1) committing family violence;

22 (2) communicating:

23 (A) directly with a person protected by an order
24 or a member of the family or household of a person protected by an
25 order, in a threatening or harassing manner;

26 (B) a threat through any person to a person
27 protected by an order or a member of the family or household of a

1 person protected by an order; and

2 (C) if the court finds good cause, in any manner
3 with a person protected by an order or a member of the family or
4 household of a person protected by an order, except through the
5 party's attorney or a person appointed by the court;

6 (3) going to or near the residence or place of
7 employment or business of a person protected by an order or a member
8 of the family or household of a person protected by an order;

9 (4) going to or near the residence, child-care
10 facility, or school a child protected under the order normally
11 attends or in which the child normally resides;

12 (5) engaging in conduct directed specifically toward a
13 person who is a person protected by an order or a member of the
14 family or household of a person protected by an order, including
15 following the person, that is reasonably likely to harass, annoy,
16 alarm, abuse, torment, or embarrass the person; ~~and~~

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

21 (7) harming, threatening, or interfering with the
22 care, custody, or control of a pet, companion animal, or assistance
23 animal, as defined by Section 121.002, Human Resources Code, that
24 is possessed by a person protected by an order or by a member of the
25 family or household of a person protected by an order.

26 SECTION 3. Section 25.07(a), Penal Code, as amended by
27 Chapters 66 (S.B. 584) and 1113 (H.B. 3692), Acts of the 80th

1 Legislature, Regular Session, 2007, is reenacted and amended to
2 read as follows:

3 (a) A person commits an offense if, in violation of a
4 condition of bond set in a family violence case and related to the
5 safety of the victim or the safety of the community, an order issued
6 under Article 17.292, Code of Criminal Procedure, an order issued
7 under Section 6.504, Family Code, Chapter 83, Family Code, if the
8 temporary ex parte order has been served on the person, or Chapter
9 85, Family Code, or an order issued by another jurisdiction as
10 provided by Chapter 88, Family Code, the person knowingly or
11 intentionally:

12 (1) commits family violence or an act in furtherance
13 of an offense under Section 22.011, 22.021, or 42.072;

14 (2) communicates:

15 (A) directly with a protected individual or a
16 member of the family or household in a threatening or harassing
17 manner;

18 (B) a threat through any person to a protected
19 individual or a member of the family or household; or

20 (C) in any manner with the protected individual
21 or a member of the family or household except through the person's
22 attorney or a person appointed by the court, if the violation is of
23 an order described by this subsection and the order prohibits any
24 communication with a protected individual or a member of the family
25 or household;

26 (3) goes to or near any of the following places as
27 specifically described in the order or condition of bond:

1 (A) the residence or place of employment or
2 business of a protected individual or a member of the family or
3 household; or

4 (B) any child care facility, residence, or school
5 where a child protected by the order or condition of bond normally
6 resides or attends; [~~or~~]

7 (4) possesses a firearm; or

8 (5) harms, threatens, or interferes with the care,
9 custody, or control of a pet, companion animal, or assistance
10 animal that is possessed by a person protected by the order.

11 SECTION 4. Section 25.07(b), Penal Code, is amended by
12 adding Subdivision (3) to read as follows:

13 (3) "Assistance animal" has the meaning assigned by
14 Section 121.002, Human Resources Code.

15 SECTION 5. This Act takes effect September 1, 2009.

ADOPTED

MAY 26 2009

FLOOR AMENDMENT NO. 1

Antony Brown
Secretary of the Senate

BY: _____



1 Amend. H.B. No. 853 (Senate Committee Printing) by
2 adding the following appropriately numbered SECTIONS to the bill
3 and renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 71.0021(a), Family Code, is amended
5 to read as follows:

6 (a) "Dating violence" means an act by an individual that
7 is against another individual with whom that person has or has
8 had a dating relationship, or by an individual against another
9 individual who is in a dating relationship with a third
10 individual with whom the actor is or has been in a dating
11 relationship or marriage, and that is intended to result in
12 physical harm, bodily injury, assault, or sexual assault or that
13 is a threat that reasonably places the individual in fear of
14 imminent physical harm, bodily injury, assault, or sexual
15 assault, but does not include defensive measures to protect
16 oneself.

17 SECTION _____. The change in law made by this Act to Section
18 71.0021, Family Code, applies only to an application for a
19 protective order that is filed on or after the effective date of
20 this Act. An application for a protective order filed before
21 the effective date of this Act is governed by the law in effect
22 on the date the application is filed, and the former law is
23 continued in effect for that purpose.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB853 by Laubenberg (Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Family Code and the Penal Code relating to inclusion of pets and other companion animals in protective orders and would provide a penalty. To the extent the bill would expand the purposes for which a court could issue a protective order, no increase in judicial workloads or fiscal implication to the State is anticipated. The bill would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated. The bill would allow a court to issue a protective order prohibiting a party from removing a pet, companion animal, or assistance animal from the possession of a person named in the order.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ESi, TP, TB, MN

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB853 by Laubenberg (Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Family Code and the Penal Code relating to inclusion of pets and other companion animals in protective orders and would provide a penalty. To the extent the bill would expand the purposes for which a court could issue a protective order, no increase in judicial workloads or fiscal implication to the State is anticipated. The bill would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated. The bill would allow a court to issue a protective order prohibiting a party from removing a pet, companion animal, or assistance animal from the possession of a person named in the order.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ESi, TP, TB, MN

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 13, 2009

TO: Honorable Todd Hunter, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB853 by Laubenberg (Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Family Code and the Penal Code relating to inclusion of pets and other companion animals in protective orders and would provide a penalty. To the extent the bill would expand the purposes for which a court could issue a protective order, no increase in judicial workloads or fiscal implication to the State is anticipated. The bill would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated. The bill would allow a court to issue a protective order prohibiting a party from removing a pet, companion animal, or assistance animal from the possession of a person named in the order.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, TP, TB, MN

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB853 by Laubenberg (Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 10, 2009

TO: Honorable Todd Hunter, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB853 by Laubenberg (Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

