

**House Bill 853**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

The following rows were presented as identical to the language of the House Committee Report version of Senate Bill 843, relating to protective orders against dating violence.

No equivalent provision.

SECTION \_\_. Section 71.0021(a), Family Code, is amended to read as follows:

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

No equivalent provision.

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

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End of Senate Bill 843 language.

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

Sec. 85.021. REQUIREMENTS OF ORDER APPLYING TO ANY PARTY. In a protective order, the court may:

(1) prohibit a party from:

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

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

(ii) the jurisdiction of the court; ~~or~~

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

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

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

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

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

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

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residence;

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

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

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

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

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

(1) committing family violence;

(2) communicating:

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

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

(C) if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected by an order, except

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through the party's attorney or a person appointed by the court;

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

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

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

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

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

SECTION 3. Section 25.07(a), Penal Code, as amended by Chapters 66 (S.B. 584) and 1113 (H.B. 3692), Acts of the 80th Legislature, Regular Session, 2007, is reenacted

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and amended to read as follows:

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

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

(2) communicates:

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

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

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

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

(A) the residence or place of employment or business of a protected individual or a member of the family or

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household; or

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

(4) possesses a firearm; or

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

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

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

Same as House version.

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

Same as House version.