

BILL ANALYSIS

S.B. 789
By: Harris
Judiciary & Civil Jurisprudence
Committee Report (Amended)

BACKGROUND AND PURPOSE

Current law, which provides for a protective order to be in effect for up to two years, does not expressly allow for a longer protective order for repeat offenders or offenders who cause serious bodily injury. If a person protected by an order is still in danger after the expiration of the order, that person must currently go back to court and apply for another protective order.

Interested parties note that there is a need to further protect victims of family violence when the abuse is severe or when the offender repeatedly abuses the same victim and the parties assert that statutory changes should be made that allow a protective order to last longer than two years if the court makes certain findings relating to the history of the offender and likelihood that the offender will commit family violence in the future. S.B. 789 seeks to address matters relating to the duration of a protective order against family violence.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 789 amends the Family Code to authorize a court to render a protective order sufficient to protect the applicant and members of the applicant's family or household that is effective for a period that exceeds two years if the court finds that the person who is the subject of the protective order caused serious bodily injury to the applicant or a member of the applicant's family or household or if the court finds that the person who is the subject of the protective order was the subject of two or more previous protective orders rendered to protect the person on whose behalf the current protective order is sought and rendered after a finding by the court that the subject of the protective order has committed family violence and is likely to commit family violence in the future. The bill requires a court that renders a protective order for a period of more than two years to include such a finding in the order.

S.B. 789 specifies that, after a hearing on a motion requesting the review of a protective order and a determination of whether there is a continuing need for the order, the protective order remains in effect until the date the order expires if the court does not make a finding that there is no continuing need for the protective order, rather than if the court finds there is a continuing need for the protective order. The bill clarifies that evidence in such a hearing of the movant's compliance with the protective order does not by itself support a finding by a court that there is no continuing need for the protective order. The bill makes conforming changes.

EFFECTIVE DATE

September 1, 2011.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1

Committee Amendment No. 1 authorizes a person who is the subject of a protective order that is effective for a period that exceeds two years to file a subsequent motion requesting that the court review the protective order and determine whether there is a continuing need for the order not earlier than the first anniversary of the date on which the court rendered an order on a previous motion by the person for such a review and determination.