

By: Harris, Nelson

S.B. No. 789

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the duration of a protective order against family
3 violence.

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

5 SECTION 1. Section 85.001, Family Code, is amended by
6 adding Subsection (d) to read as follows:

7 (d) If the court renders a protective order for a period of
8 more than two years, the court must include in the order a finding
9 described by Section 85.025(a-1).

10 SECTION 2. Section 85.025, Family Code, is amended to read
11 as follows:

12 Sec. 85.025. DURATION OF PROTECTIVE ORDER. (a) Except as
13 otherwise provided by this section [~~Subsection (b) or (c)~~], an
14 order under this subtitle is effective:

15 (1) for the period stated in the order, not to exceed
16 two years; or

17 (2) if a period is not stated in the order, until the
18 second anniversary of the date the order was issued.

19 (a-1) The court may render a protective order sufficient to
20 protect the applicant and members of the applicant's family or
21 household that is effective for a period that exceeds two years if
22 the court finds that the person who is the subject of the protective
23 order:

24 (1) caused serious bodily injury to the applicant or a

1 member of the applicant's family or household; or

2 (2) was the subject of two or more previous protective
3 orders rendered:

4 (A) to protect the person on whose behalf the
5 current protective order is sought; and

6 (B) after a finding by the court that the subject
7 of the protective order:

8 (i) has committed family violence; and

9 (ii) is likely to commit family violence in
10 the future.

11 (b) A person who is the subject of a protective order may
12 file a motion not earlier than the first anniversary of the date on
13 which the order was rendered requesting that the court review the
14 protective order and determine whether there is a continuing need
15 for the order. After a hearing on the motion, if the court does not
16 make a finding that [~~finds~~] there is no [~~a~~] continuing need for the
17 protective order, the protective order remains in effect until the
18 date the order expires under this section. Evidence of the movant's
19 compliance with the protective order does not by itself support a
20 finding by the court that there is no continuing need for the
21 protective order. If the court finds there is no continuing need
22 for the protective order, the court shall order that the protective
23 order expires on a date set by the court.

24 (c) If a person who is the subject of a protective order is
25 confined or imprisoned on the date the protective order would
26 expire under Subsection (a) or (a-1), the period for which the order
27 is effective is extended, and the order expires on the first

1 anniversary of the date the person is released from confinement or
2 imprisonment.

3 SECTION 3. Section 87.002, Family Code, is amended to read
4 as follows:

5 Sec. 87.002. MODIFICATION MAY NOT EXTEND DURATION OF ORDER.
6 A protective order may not be modified to extend the period of the
7 order's validity beyond the second anniversary of the date the
8 original order was rendered or beyond the date the order expires
9 under Section 85.025(a-1) or (c) [~~85.025(c)~~], whichever date occurs
10 later.

11 SECTION 4. The change in law made by this Act applies only
12 to an application for a protective order that is filed on or after
13 the effective date of this Act. An application for a protective
14 order filed before the effective date of this Act is governed by the
15 law in effect on the date the application is filed, and the former
16 law is continued in effect for that purpose.

17 SECTION 5. This Act takes effect September 1, 2011.