

By: Harris, Nelson  
(Thompson)

S.B. No. 789

A BILL TO BE ENTITLED

AN ACT

relating to the duration of a protective order against family violence.

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

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

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

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

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

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

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

(a-1) The court may 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:

(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.

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 789 (senate engrossment) in SECTION 2 of the bill, in amended Section 85.025(b), Family Code (page 2, line 15), between "order." and "After", by inserting the following:

A person who is the subject of a protective order under Subsection (a-1) that is effective for a period that exceeds two years may 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 under this subsection.

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