

1-1 By: Harris S.B. No. 789
1-2 (In the Senate - Filed February 18, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 30, 2011, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; March 30, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the duration of a protective order against family
1-9 violence.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 85.001, Family Code, is amended by
1-12 adding Subsection (d) to read as follows:

1-13 (d) If the court renders a protective order for a period of
1-14 more than two years, the court must include in the order a finding
1-15 described by Section 85.025(a-1).

1-16 SECTION 2. Section 85.025, Family Code, is amended to read
1-17 as follows:

1-18 Sec. 85.025. DURATION OF PROTECTIVE ORDER. (a) Except as
1-19 otherwise provided by this section [~~Subsection (b) or (c)~~], an
1-20 order under this subtitle is effective:

1-21 (1) for the period stated in the order, not to exceed
1-22 two years; or

1-23 (2) if a period is not stated in the order, until the
1-24 second anniversary of the date the order was issued.

1-25 (a-1) The court may render a protective order sufficient to
1-26 protect the applicant and members of the applicant's family or
1-27 household that is effective for a period that exceeds two years if
1-28 the court finds that the person who is the subject of the protective
1-29 order:

1-30 (1) caused serious bodily injury to the applicant or a
1-31 member of the applicant's family or household; or

1-32 (2) was the subject of two or more previous protective
1-33 orders rendered:

1-34 (A) to protect the person on whose behalf the
1-35 current protective order is sought; and

1-36 (B) after a finding by the court that the subject
1-37 of the protective order:

1-38 (i) has committed family violence; and

1-39 (ii) is likely to commit family violence in
1-40 the future.

1-41 (b) A person who is the subject of a protective order may
1-42 file a motion not earlier than the first anniversary of the date on
1-43 which the order was rendered requesting that the court review the
1-44 protective order and determine whether there is a continuing need
1-45 for the order. After a hearing on the motion, if the court does not
1-46 make a finding that [finds] there is no [a] continuing need for the
1-47 protective order, the protective order remains in effect until the
1-48 date the order expires under this section. Evidence of the movant's
1-49 compliance with the protective order does not by itself support a
1-50 finding by the court that there is no continuing need for the
1-51 protective order. If the court finds there is no continuing need
1-52 for the protective order, the court shall order that the protective
1-53 order expires on a date set by the court.

1-54 (c) If a person who is the subject of a protective order is
1-55 confined or imprisoned on the date the protective order would
1-56 expire under Subsection (a) or (a-1), the period for which the order
1-57 is effective is extended, and the order expires on the first
1-58 anniversary of the date the person is released from confinement or
1-59 imprisonment.

1-60 SECTION 3. Section 87.002, Family Code, is amended to read
1-61 as follows:

1-62 Sec. 87.002. MODIFICATION MAY NOT EXTEND DURATION OF ORDER.
1-63 A protective order may not be modified to extend the period of the
1-64 order's validity beyond the second anniversary of the date the

2-1 original order was rendered or beyond the date the order expires
2-2 under Section 85.025(a-1) or (c) [~~85.025(e)~~], whichever date occurs
2-3 later.

2-4 SECTION 4. The change in law made by this Act applies only
2-5 to an application for a protective order that is filed on or after
2-6 the effective date of this Act. An application for a protective
2-7 order filed before the effective date of this Act is governed by the
2-8 law in effect on the date the application is filed, and the former
2-9 law is continued in effect for that purpose.

2-10 SECTION 5. This Act takes effect September 1, 2011.

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