

By: Harris, Uresti
(Thompson)

S.B. No. 819

A BILL TO BE ENTITLED

AN ACT

relating to family violence and protective orders.

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

SECTION 1. Chapter 81, Family Code, is amended by adding Section 81.010 to read as follows:

Sec. 81.010. COURT ENFORCEMENT. (a) A court of this state with jurisdiction of proceedings arising under this title may enforce a protective order rendered by another court in the same manner that the court that rendered the order could enforce the order, regardless of whether the order is transferred under Subchapter D, Chapter 85.

(b) A court's authority under this section includes the authority to enforce a protective order through contempt.

SECTION 2. Subsection (b), Section 82.002, Family Code, is amended to read as follows:

(b) With regard to family violence under Section 71.004(3), an application for a protective order to protect the applicant may be filed by a [an—adult] member of the dating relationship, regardless of whether the member is an adult or a child.

SECTION 3. Section 82.009, Family Code, is amended to read as follows:

Sec. 82.009. APPLICATION FOR TEMPORARY EX PARTE ORDER.

(a) An application that requests the issuance of a temporary ex parte order under Chapter 83 must:

1 (1) contain a detailed description of the facts and
2 circumstances concerning the alleged family violence and the need
3 for the immediate protective order; and

4 (2) be signed by each applicant under an oath that the
5 facts and circumstances contained in the application are true to
6 the best knowledge and belief of each applicant.

7 (b) For purposes of this section, a statement signed under
8 oath by a child is valid if the statement otherwise complies with
9 this chapter.

10 SECTION 4. Section 83.006, Family Code, is amended by
11 adding Subsection (c) to read as follows:

12 (c) The court may recess the hearing on a temporary ex parte
13 order to contact the respondent by telephone and provide the
14 respondent the opportunity to be present when the court resumes the
15 hearing. Without regard to whether the respondent is able to be
16 present at the hearing, the court shall resume the hearing before
17 the end of the working day.

18 SECTION 5. Subsection (a), Section 85.026, Family Code, is
19 amended to read as follows:

20 (a) Each protective order issued under this subtitle,
21 including a temporary ex parte order, must contain the following
22 prominently displayed statements in boldfaced type, capital
23 letters, or underlined:

24 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR
25 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN
26 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

27 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS

ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

"IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN 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, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION."

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS."

SECTION 6. The following provisions of the Family Code are repealed:

- (1) Section 83.007;
- (2) Subsection (b), Section 85.026; and
- (3) Subsections (a) and (b), Section 85.065.

SECTION 7. (a) The changes in law made by this Act to Sections 82.002 and 82.009, Family Code, apply 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

1 is continued in effect for that purpose.

2 (b) The changes in law made by this Act to Section 85.026,
3 Family Code, apply only to a protective order issued on or after the
4 effective date of this Act. A protective order issued before the
5 effective date of this Act is governed by the law in effect on the
6 date the order is issued, and the former law is continued in effect
7 for that purpose.

8 SECTION 8. This Act takes effect September 1, 2011.

COMMITTEE AMENDMENT NO. 1

Amend S.B. 819 in SECTION 1 of the bill, in added Section 81.010, Family Code (senate engrossment, page 1, between lines 13 and 14), by inserting the following:

(c) A motion for enforcement of a protective order rendered under this title may be filed in:

(1) any court in the county in which the order was rendered with jurisdiction of proceedings arising under this title;

(2) a county in which the movant or respondent resides; or

(3) a county in which an alleged violation of the order occurs.

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