

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Neave, Cook, Moody, Morales Shaw

H.B. No. 39

A BILL TO BE ENTITLED

AN ACT

relating to protective orders; making conforming changes.

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

SECTION 1. Sections 85.005(a) and (b), Family Code, are amended to read as follows:

(a) To facilitate settlement, the parties to a proceeding may agree in writing to ~~[the terms of]~~ a protective order as provided by Sections ~~[Section]~~ 85.021 and 85.022. An agreement under this subsection is subject to the approval of the court. The court may not approve an agreement that requires the applicant for the protective order to do or refrain from doing an act under Section 85.022.

(b) An ~~[To facilitate settlement, a respondent may agree in writing to the terms of a protective order as provided by Section 85.022, subject to the approval of the court. The court may not approve an agreement that requires the applicant to do or refrain from doing an act under Section 85.022. The]~~ agreed protective order is enforceable civilly or criminally, regardless of whether the court makes the findings required by Section 85.001.

SECTION 2. Section 85.006(a), Family Code, is amended to read as follows:

(a) Notwithstanding Rule 107, Texas Rules of Civil Procedure, a [A] court may render a protective order that is binding on a respondent who does not attend a hearing if:

1           (1) the respondent received service of the application  
2 and notice of the hearing; and

3           (2) proof of service was filed with the court before  
4 the hearing.

5           SECTION 3. Article 7B.001(a), Code of Criminal Procedure,  
6 is amended to read as follows:

7           (a) The following persons may file an application for a  
8 protective order under this subchapter without regard to the  
9 relationship between the applicant and the alleged offender:

10           (1) a person who is the victim of an offense under  
11 Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, [ex] 42.072,  
12 or 43.05, Penal Code;

13           (2) any adult, including a parent or guardian, who is  
14 acting on behalf of a victim described by Subdivision (1), if the  
15 victim is younger than 18 years of age or an adult ward [a person who  
16 is the victim of an offense under Section 20A.02, 20A.03, or 43.05,  
17 Penal Code]; or

18           (3) [~~a parent or guardian acting on behalf of a person~~  
19 ~~younger than 17 years of age who is the victim of an offense listed~~  
20 ~~in Subdivision (1),~~

21           [~~(4) a parent or guardian acting on behalf of a person~~  
22 ~~younger than 18 years of age who is the victim of an offense listed~~  
23 ~~in Subdivision (2), or~~

24           [~~(5)~~] a prosecuting attorney acting on behalf of a  
25 person described by Subdivision (1) or [7] (2) [~~(3), or (4)~~].

26           SECTION 4. Article 7B.001, Code of Criminal Procedure, is  
27 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th

1 Legislature, Regular Session, 2019, by adding Subsections (a-1) and  
2 (a-2) and is further amended to read as follows:

3 (a-1) Except as provided by Subsection (a-2), if an  
4 application has not yet been filed in the case under Subsection (a),  
5 the attorney representing the state shall promptly file an  
6 application for a protective order with respect to each victim of an  
7 offense listed in Subdivision (1) of that subsection following the  
8 offender's conviction of or placement on deferred adjudication  
9 community supervision for the offense.

10 (a-2) The attorney representing the state may not file an  
11 application under Subsection (a-1) with respect to a victim if the  
12 victim requests that the attorney representing the state not file  
13 the application. This subsection does not apply to a victim who is  
14 younger than 18 years of age or who is an adult ward.

15 SECTION 5. Article 7B.003, Code of Criminal Procedure, is  
16 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th  
17 Legislature, Regular Session, 2019, by adding Subsection (c) and is  
18 further amended to read as follows:

19 (c) An offender's conviction of or placement on deferred  
20 adjudication community supervision for an offense listed in Article  
21 7B.001(a)(1) constitutes reasonable grounds under Subsection (a).

22 SECTION 6. Article 7B.007, Code of Criminal Procedure, is  
23 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th  
24 Legislature, Regular Session, 2019, by adding Subsection (a-1) and  
25 is further amended to read as follows:

26 (a-1) The court shall issue a protective order effective for  
27 the duration of the lives of the offender and victim if the offender

1 is:

2 (1) convicted of or placed on deferred adjudication  
3 community supervision for an offense listed in Article  
4 7B.001(a)(1); and

5 (2) required under Chapter 62 to register for life as a  
6 sex offender.

7 SECTION 7. Article 7B.007, Code of Criminal Procedure, is  
8 amended by amending Subsection (b) and adding Subsection (b-1) to  
9 read as follows:

10 (b) The following persons may file at any time an  
11 application with the court to rescind the protective order:

12 (1) a victim of an offense listed in Article  
13 7B.001(a)(1) who is 18 [~~17~~] years of age or older;

14 (2) subject to Subsection (b-1), [~~or~~] a parent or  
15 guardian acting on behalf of a victim of an offense listed in  
16 Article 7B.001(a)(1) who is younger than 18 [~~17~~] years of age or an  
17 adult ward; or

18 (3) a person not otherwise described by Subdivision  
19 (1) or (2) who filed the application for the protective order.

20 (b-1) A [~~(2) a victim of an offense listed in Article~~  
21 ~~7B.001(a)(2) or a~~] parent or guardian may not file an application to  
22 rescind the protective order under Subsection (b)(2) if the parent  
23 or guardian is the alleged offender subject to the protective order  
24 [~~acting on behalf of a victim who is younger than 18 years of age~~].

25 SECTION 8. Article 56A.052(d), Code of Criminal Procedure,  
26 is amended to read as follows:

27 (d) This subsection applies only to a victim of an offense

1 under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 42.072,  
2 or 43.05, Penal Code. A victim described by this subsection or a  
3 parent or guardian of the victim, if the victim is younger than 18  
4 years of age or an adult ward, is entitled to the following rights  
5 within the criminal justice system:

6 (1) the right to be informed:

7 (A) that the victim or, if the victim is younger  
8 than 18 years of age or an adult ward, the victim's parent or  
9 guardian or another adult acting on the victim's behalf [~~as~~  
10 ~~applicable,~~] may file an application for a protective order under  
11 Article 7B.001;

12 (B) of the court in which the application for a  
13 protective order may be filed; [~~and~~]

14 (C) that, on request of the victim or, if the  
15 victim is younger than 18 years of age or an adult ward, on request  
16 of the victim's parent or guardian or another adult acting on the  
17 victim's behalf, [~~as applicable, and subject to the Texas~~  
18 ~~Disciplinary Rules of Professional Conduct,~~] the attorney  
19 representing the state may, subject to the Texas Disciplinary Rules  
20 of Professional Conduct, file the application for a protective  
21 order on behalf of the requestor [~~victim~~]; and

22 (D) that, subject to the Texas Disciplinary Rules  
23 of Professional Conduct, the attorney representing the state  
24 generally is required to file the application for a protective  
25 order with respect to the victim if the defendant is convicted of or  
26 placed on deferred adjudication community supervision for the  
27 offense;

1 (2) the right to:

2 (A) request that the attorney representing the  
3 state, subject to the Texas Disciplinary Rules of Professional  
4 Conduct, file an application for a protective order described by  
5 Subdivision (1); and

6 (B) be notified when the attorney representing  
7 the state files an application for a protective order under Article  
8 7B.001;

9 (3) if the victim or the victim's parent or guardian,  
10 as applicable, is present when the defendant is convicted or placed  
11 on deferred adjudication community supervision, the right to:

12 (A) be given by the court the information  
13 described by Subdivision (1); and

14 (B) file an application for a protective order  
15 under Article 7B.001 immediately following the defendant's  
16 conviction or placement on deferred adjudication community  
17 supervision if the court has jurisdiction over the application; and

18 (4) if the victim or the victim's parent or guardian,  
19 as applicable, is not present when the defendant is convicted or  
20 placed on deferred adjudication community supervision, the right to  
21 be given by the attorney representing the state the information  
22 described by Subdivision (1).

23 SECTION 9. Section 25.07(g), Penal Code, is amended to read  
24 as follows:

25 (g) An offense under this section is a Class A misdemeanor,  
26 except the offense is:

27 (1) subject to Subdivision (2), a state jail felony if

1 it is shown at the trial of the offense that the defendant violated  
2 an order issued under Subchapter A, Chapter 7B [~~as a result of an~~  
3 ~~application filed under Article 7A.01(a-1)]], Code of Criminal  
4 Procedure, following the defendant's conviction of or placement on  
5 deferred adjudication community supervision for an offense, if the  
6 order was issued with respect to a victim of that offense; or~~

7 (2) a felony of the third degree if it is shown on the  
8 trial of the offense that the defendant:

9 (A) has previously been convicted two or more  
10 times of an offense under this section or two or more times of an  
11 offense under Section 25.072, or has previously been convicted of  
12 an offense under this section and an offense under Section 25.072;  
13 or

14 (B) has violated the order or condition of bond  
15 by committing an assault or the offense of stalking.

16 SECTION 10. The following provisions are repealed:

17 (1) Section 1, Chapter 1066 (H.B. 1343), Acts of the  
18 86th Legislature, Regular Session, 2019, which amended Article  
19 7A.01, Code of Criminal Procedure;

20 (2) Section 2, Chapter 1066 (H.B. 1343), Acts of the  
21 86th Legislature, Regular Session, 2019, which amended Article  
22 7A.03, Code of Criminal Procedure; and

23 (3) Section 3, Chapter 1066 (H.B. 1343), Acts of the  
24 86th Legislature, Regular Session, 2019, which amended Article  
25 7A.07, Code of Criminal Procedure.

26 SECTION 11. Section 85.005, Family Code, as amended by this  
27 Act, applies only to a protective order approved by the court on or

1 after the effective date of this Act.

2 SECTION 12. Section 85.006, Family Code, as amended by this  
3 Act, applies only to a protective order for which the respondent  
4 receives service on or after the effective date of this Act.

5 SECTION 13. Subchapter A, Chapter 7B, Code of Criminal  
6 Procedure, as amended by this Act, applies only to a protective  
7 order for which an application is filed on or after the effective  
8 date of this Act.

9 SECTION 14. Article 56A.052(d), Code of Criminal Procedure,  
10 as amended by this Act, applies to a victim of criminally injurious  
11 conduct for which a judgment of conviction is entered or a grant of  
12 deferred adjudication community supervision is made on or after the  
13 effective date of this Act, regardless of whether the criminally  
14 injurious conduct occurred before, on, or after the effective date  
15 of this Act.

16 SECTION 15. To the extent of any conflict, this Act prevails  
17 over another Act of the 87th Legislature, Regular Session, 2021,  
18 relating to nonsubstantive additions to and corrections in enacted  
19 codes.

20 SECTION 16. This Act takes effect September 1, 2021.



ADOPTED

MAY 19 2021

*Latey Law*  
Secretary of the Senate

By: Zaffirini

H.B. No. 39

Substitute the following for H.B. No. 39:

By: John Lubitz

C.S.H.B. No. 39

A BILL TO BE ENTITLED

AN ACT

1 relating to protective orders; making conforming changes.

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

3 SECTION 1. Sections 85.005(a) and (b), Family Code, are  
4 amended to read as follows:

5 (a) To facilitate settlement, the parties to a proceeding  
6 may agree in writing to ~~[the terms of]~~ a protective order as  
7 provided by Sections ~~[Section]~~ 85.021 and 85.022. An agreement  
8 under this subsection is subject to the approval of the court. The  
9 court may not approve an agreement that requires the applicant for  
10 the protective order to do or refrain from doing an act under  
11 Section 85.022.

12 (b) An ~~[To facilitate settlement, a respondent may agree in~~  
13 ~~writing to the terms of a protective order as provided by Section~~  
14 ~~85.022, subject to the approval of the court. The court may not~~  
15 ~~approve an agreement that requires the applicant to do or refrain~~  
16 ~~from doing an act under Section 85.022. The]~~ agreed protective  
17 order is enforceable civilly or criminally, regardless of whether  
18 the court makes the findings required by Section 85.001.

19 SECTION 2. Section 85.006(a), Family Code, is amended to  
20 read as follows:

21 (a) Notwithstanding Rule 107, Texas Rules of Civil  
22 Procedure, a [A] court may render a protective order that is binding  
23 on a respondent who does not attend a hearing if:  
24

1           (1) the respondent received service of the application  
2 and notice of the hearing; and  
3           (2) proof of service was filed with the court before  
4 the hearing.

5           SECTION 3. Section 85.025, Family Code, is amended by  
6 adding Subsection (d) to read as follows:

7           (d) If the duration of a protective order is subject to an  
8 automatic extension under Subsection (c), the Department of Public  
9 Safety shall, based on the duration of the sentence of the person  
10 subject to the protective order, enter the projected expiration  
11 date of the order in the statewide law enforcement information  
12 system maintained by the department. On release of the person, the  
13 department shall update the information in the statewide law  
14 enforcement system to reflect the date the order will expire  
15 following the person's release.

16           SECTION 4. Section 85.026(a), Family Code, is amended to  
17 read as follows:

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

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

25           "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS  
26 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY  
27 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS

1 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT  
2 UNLESS A COURT CHANGES THE ORDER."

3 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS  
4 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT  
5 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL  
6 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A  
7 FIREARM OR AMMUNITION."

8 "IF A PERSON SUBJECT TO A PROTECTIVE ORDER IS RELEASED FROM  
9 CONFINEMENT OR IMPRISONMENT FOLLOWING THE DATE THE ORDER WOULD HAVE  
10 EXPIRED, OR IF THE ORDER WOULD HAVE EXPIRED NOT LATER THAN THE FIRST  
11 ANNIVERSARY OF THE DATE THE PERSON IS RELEASED FROM CONFINEMENT OR  
12 IMPRISONMENT, THE ORDER IS AUTOMATICALLY EXTENDED TO EXPIRE ON:

13 "(1) THE FIRST ANNIVERSARY OF THE DATE THE PERSON IS  
14 RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR  
15 IMPRISONMENT FOR A TERM OF MORE THAN FIVE YEARS; OR

16 "(2) THE SECOND ANNIVERSARY OF THE DATE THE PERSON IS  
17 RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR  
18 IMPRISONMENT FOR A TERM OF FIVE YEARS OR LESS."

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

26 SECTION 5. Section 86.0011(a), Family Code, is amended to  
27 read as follows:

1 (a) On receipt of an original or modified protective order  
2 from the clerk of the issuing court, or on receipt of information  
3 pertaining to the date of confinement or imprisonment or date of  
4 release of a person subject to the protective order, a law  
5 enforcement agency shall immediately, but not later than the third  
6 business day after the date the order or information is received,  
7 enter the information required by Section 411.042(b)(6),  
8 Government Code, into the statewide law enforcement information  
9 system maintained by the Department of Public Safety.

10 SECTION 6. Article 7B.001(a), Code of Criminal Procedure,  
11 is amended to read as follows:

12 (a) The following persons may file an application for a  
13 protective order under this subchapter without regard to the  
14 relationship between the applicant and the alleged offender:

15 (1) a person who is the victim of an offense under  
16 Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, [or] 42.072,  
17 or 43.05, Penal Code;

18 (2) any adult, including a parent or guardian, who is  
19 acting on behalf of a victim described by Subdivision (1), if the  
20 victim is younger than 18 years of age or an adult ward [a person who  
21 is the victim of an offense under Section 20A.02, 20A.03, or 43.05,  
22 Penal Code]; or

23 (3) ~~[a parent or guardian acting on behalf of a person~~  
24 ~~younger than 17 years of age who is the victim of an offense listed~~  
25 ~~in Subdivision (1),~~

26 ~~[(4) a parent or guardian acting on behalf of a person~~  
27 ~~younger than 18 years of age who is the victim of an offense listed~~

1 ~~in Subdivision (2), or~~

2 [~~5~~] a prosecuting attorney acting on behalf of a  
3 person described by Subdivision (1) or [~~7~~] (2) [~~7~~, ~~(3)~~, ~~or~~ (4)].

4 SECTION 7. Article 7B.001, Code of Criminal Procedure, is  
5 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th  
6 Legislature, Regular Session, 2019, by adding Subsections (a-1) and  
7 (a-2) and is further amended to read as follows:

8 (a-1) Except as provided by Subsection (a-2), if an  
9 application has not yet been filed in the case under Subsection (a),  
10 the attorney representing the state shall promptly file an  
11 application for a protective order with respect to each victim of an  
12 offense listed in Subdivision (1) of that subsection following the  
13 offender's conviction of or placement on deferred adjudication  
14 community supervision for the offense.

15 (a-2) The attorney representing the state may not file an  
16 application under Subsection (a-1) with respect to a victim if the  
17 victim requests that the attorney representing the state not file  
18 the application. This subsection does not apply to a victim who is  
19 younger than 18 years of age or who is an adult ward.

20 SECTION 8. Article 7B.003, Code of Criminal Procedure, is  
21 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th  
22 Legislature, Regular Session, 2019, by adding Subsection (c) and is  
23 further amended to read as follows:

24 (c) An offender's conviction of or placement on deferred  
25 adjudication community supervision for an offense listed in Article  
26 7B.001(a)(1) constitutes reasonable grounds under Subsection (a).

27 SECTION 9. Article 7B.007, Code of Criminal Procedure, is

1 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th  
2 Legislature, Regular Session, 2019, by adding Subsection (a-1) and  
3 is further amended to read as follows:

4 (a-1) The court shall issue a protective order effective for  
5 the duration of the lives of the offender and victim if the offender  
6 is:

7 (1) convicted of or placed on deferred adjudication  
8 community supervision for an offense listed in Article  
9 7B.001(a)(1); and

10 (2) required under Chapter 62 to register for life as a  
11 sex offender.

12 SECTION 10. Article 7B.007, Code of Criminal Procedure, is  
13 amended by amending Subsection (b) and adding Subsection (b-1) to  
14 read as follows:

15 (b) The following persons may file at any time an  
16 application with the court to rescind the protective order:

17 (1) a victim of an offense listed in Article  
18 7B.001(a)(1) who is 18 [~~17~~] years of age or older;

19 (2) subject to Subsection (b-1), [~~or~~] a parent or  
20 guardian acting on behalf of a victim of an offense listed in  
21 Article 7B.001(a)(1) who is younger than 18 [~~17~~] years of age or an  
22 adult ward; or

23 (3) a person not otherwise described by Subdivision  
24 (1) or (2) who filed the application for the protective order.

25 (b-1) A [~~(2)~~] a victim of an offense listed in Article  
26 7B.001(a)(2) or a] parent or guardian may not file an application to  
27 rescind the protective order under Subsection (b)(2) if the parent

1 or guardian is the alleged offender subject to the protective order  
2 [acting on behalf of a victim who is younger than 18 years of age].

3 SECTION 11. Article 56A.052(d), Code of Criminal Procedure,  
4 is amended to read as follows:

5 (d) This subsection applies only to a victim of an offense  
6 under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 42.072,  
7 or 43.05, Penal Code. A victim described by this subsection or a  
8 parent or guardian of the victim, if the victim is younger than 18  
9 years of age or an adult ward, is entitled to the following rights  
10 within the criminal justice system:

11 (1) the right to be informed:

12 (A) that the victim or, if the victim is younger  
13 than 18 years of age or an adult ward, the victim's parent or  
14 guardian or another adult acting on the victim's behalf~~[, as~~  
15 ~~applicable,]~~ may file an application for a protective order under  
16 Article 7B.001;

17 (B) of the court in which the application for a  
18 protective order may be filed; ~~and]~~

19 (C) that, on request of the victim or, if the  
20 victim is younger than 18 years of age or an adult ward, on request  
21 of the victim's parent or guardian or another adult acting on the  
22 victim's behalf, ~~[as applicable, and subject to the Texas~~  
23 ~~Disciplinary Rules of Professional Conduct,]~~ the attorney  
24 representing the state may, subject to the Texas Disciplinary Rules  
25 of Professional Conduct, file the application for a protective  
26 order on behalf of the requestor ~~[victim]; and~~

27 (D) that, subject to the Texas Disciplinary Rules

1 of Professional Conduct, the attorney representing the state  
2 generally is required to file the application for a protective  
3 order with respect to the victim if the defendant is convicted of or  
4 placed on deferred adjudication community supervision for the  
5 offense;

6 (2) the right to:

7 (A) request that the attorney representing the  
8 state, subject to the Texas Disciplinary Rules of Professional  
9 Conduct, file an application for a protective order described by  
10 Subdivision (1); and

11 (B) be notified when the attorney representing  
12 the state files an application for a protective order under Article  
13 7B.001;

14 (3) if the victim or the victim's parent or guardian,  
15 as applicable, is present when the defendant is convicted or placed  
16 on deferred adjudication community supervision, the right to:

17 (A) be given by the court the information  
18 described by Subdivision (1); and

19 (B) file an application for a protective order  
20 under Article 7B.001 immediately following the defendant's  
21 conviction or placement on deferred adjudication community  
22 supervision if the court has jurisdiction over the application; and

23 (4) if the victim or the victim's parent or guardian,  
24 as applicable, is not present when the defendant is convicted or  
25 placed on deferred adjudication community supervision, the right to  
26 be given by the attorney representing the state the information  
27 described by Subdivision (1).



1 SECTION 12. Section 25.07, Penal Code, is amended by  
2 amending Subsection (g) and adding Subsection (h) to read as  
3 follows:

4 (g) An offense under this section is a Class A misdemeanor,  
5 except the offense is:

6 (1) subject to Subdivision (2), a state jail felony if  
7 it is shown at the trial of the offense that the defendant violated  
8 an order issued under Subchapter A, Chapter 7B [~~as a result of an~~  
9 ~~application filed under Article 7A.01(a-1)]], Code of Criminal  
10 Procedure, following the defendant's conviction of or placement on  
11 deferred adjudication community supervision for an offense, if the  
12 order was issued with respect to a victim of that offense; or~~

13 (2) a felony of the third degree if it is shown on the  
14 trial of the offense that the defendant:

15 (A) has previously been convicted two or more  
16 times of an offense under this section or two or more times of an  
17 offense under Section 25.072, or has previously been convicted of  
18 an offense under this section and an offense under Section 25.072;  
19 or

20 (B) has violated the order or condition of bond  
21 by committing an assault or the offense of stalking.

22 (h) For purposes of Subsection (g), a conviction under the  
23 laws of another state for an offense containing elements that are  
24 substantially similar to the elements of an offense under this  
25 section or Section 25.072 is considered to be a conviction under  
26 this section or Section 25.072, as applicable.

27 SECTION 13. The following provisions are repealed:

1           (1) Section 1, Chapter 1066 (H.B. 1343), Acts of the  
2 86th Legislature, Regular Session, 2019, which amended Article  
3 7A.01, Code of Criminal Procedure;

4           (2) Section 2, Chapter 1066 (H.B. 1343), Acts of the  
5 86th Legislature, Regular Session, 2019, which amended Article  
6 7A.03, Code of Criminal Procedure; and

7           (3) Section 3, Chapter 1066 (H.B. 1343), Acts of the  
8 86th Legislature, Regular Session, 2019, which amended Article  
9 7A.07, Code of Criminal Procedure.

10          SECTION 14. Section 85.005, Family Code, as amended by this  
11 Act, applies only to a protective order approved by the court on or  
12 after the effective date of this Act.

13          SECTION 15. Section 85.006, Family Code, as amended by this  
14 Act, applies only to a protective order for which the respondent  
15 receives service on or after the effective date of this Act.

16          SECTION 16. Sections 85.025, 85.026, and 86.0011, Family  
17 Code, as amended by this Act, apply only to a protective order  
18 issued on or after the effective date of this Act.

19          SECTION 17. Subchapter A, Chapter 7B, Code of Criminal  
20 Procedure, as amended by this Act, applies only to a protective  
21 order for which an application is filed on or after the effective  
22 date of this Act.

23          SECTION 18. Article 56A.052(d), Code of Criminal Procedure,  
24 as amended by this Act, applies to a victim of criminally injurious  
25 conduct for which a judgment of conviction is entered or a grant of  
26 deferred adjudication community supervision is made on or after the  
27 effective date of this Act, regardless of whether the criminally

1 injurious conduct occurred before, on, or after the effective date  
2 of this Act.

3           SECTION 19. To the extent of any conflict, this Act prevails  
4 over another Act of the 87th Legislature, Regular Session, 2021,  
5 relating to nonsubstantive additions to and corrections in enacted  
6 codes.

7           SECTION 20. This Act takes effect September 1, 2021.

**ADOPTED**

**MAY 19 2021**

*Latey Law*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Zaffine*

- 1 Amend C.S.H.B. No. 39 (senate committee report) as follows:
- 2 (1) Strike SECTION 3 of the bill (page 1, lines 46 through
- 3 56).
- 4 (2) In SECTION 16 of the bill (page 5, line 6), strike
- 5 "Sections 85.025, 85.026, and 86.0011" and substitute "Sections
- 6 85.026 and 86.0011".
- 7 (3) Renumber SECTIONS of the bill appropriately.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 21, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB39** by Neave (Relating to protective orders; making conforming changes.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Family Code to make agreed protective orders civilly and criminally enforceable, would amend the list of persons that may file an application for a protective order, and require that proof of service on a respondent must be filed before a hearing in which a court may issue a protective order by default due to a respondent's failure to appear.

Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources and no significant impact to the state court system is anticipated.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin, 405 Department of Public Safety

**LBB Staff:** JMc, LBO, DKN, BH, MW

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 14, 2021**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB39** by Neave (Relating to protective orders; making conforming changes.), **Committee Report 2nd House, Substituted**

**The fiscal implications of the bill cannot be determined because the Department of Public Safety currently does not maintain incarceration information for individuals nor have a method to access that data.**

The bill would amend the Family Code to make agreed protective orders civilly and criminally enforceable, to amend the list of persons that may file an application for a protective order, and to require that proof of service on a respondent must be filed before a hearing in which a court may issue a protective order by default due to a respondent's failure to appear.

The bill would also require the Department of Public Safety (DPS) to enter the projected expiration date of a protective order, as well as the expiration date of an order following a person's release from confinement or imprisonment, in its statewide law enforcement information system. The bill would also provide language for protective orders issued under the Family Code subtitle.

DPS indicates that it does not obtain or maintain information related to an individual's incarceration and would need to determine a method to access or query that information in order to update protective order expiration dates. According to analysis provided by the agency, it does not have a process to accumulate the relevant data from over 1,000 jurisdictions across Texas and would require additional personnel and associated resources.

Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources and no significant impact to the state court system is anticipated.

**Local Government Impact**

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated. The fiscal impact to other units of local government is not anticipated to be significant.

**Source Agencies:** 212 Office of Court Admin, 405 Department of Public Safety

**LBB Staff:** JMc, DKN, MW, BH, AF, NA

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 11, 2021**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB39** by Neave (Relating to protective orders; making conforming changes.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Family Code to make agreed protective orders civilly and criminally enforceable, would amend the list of persons that may file an application for a protective order, and require that proof of service on a respondent must be filed before a hearing in which a court may issue a protective order by default due to a respondent's failure to appear.

Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources and no significant impact to the state court system is anticipated.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin

**LBB Staff:** JMc, DKN, BH, MW

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 7, 2021**

**TO:** Honorable Victoria Neave, Chair, House Committee on Juvenile Justice & Family Issues

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE:** **HB39** by Neave (Relating to protective orders; making conforming changes.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Family Code to make agreed protective orders civilly and criminally enforceable, would amend the list of persons that may file an application for a protective order, and require that proof of service on a respondent must be filed before a hearing in which a court may issue a protective order by default due to a respondent's failure to appear.

Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources and no significant impact to the state court system is anticipated.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin

**LBB Staff:** JMc, DKn, MW, BH



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**  
**87TH LEGISLATIVE REGULAR SESSION**

**May 21, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB39** by Neave (Relating to protective orders; making conforming changes.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to protective orders. Under the provisions of the bill, violation of a protective order issued as outlined in the bill would be enhanced to a state jail felony. Under current statute, violation of a state attorney filed protective order following the offender's conviction of or placement on deferred adjudication community supervision is punishable as a state jail felony in certain circumstances.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Expanding the circumstances for which a criminal penalty is applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed onto supervision in the community or sentenced to a term of confinement within state correctional institutions. From fiscal years 2018 through 2020, average of fewer than ten people were arrested, placed onto felony direct community supervision, or admitted into a state correctional institution for the state jail felony offense modified by the bill under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, LBO, LM, DKN, SPA

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**May 14, 2021**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB39** by Neave (Relating to protective orders; making conforming changes.), **Committee Report  
2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to protective orders. Under the provisions of the bill, violation of a protective order issued as outlined in the bill would be enhanced to a state jail felony. Under current statute, violation of a state attorney filed protective order following the offender's conviction of or placement on deferred adjudication community supervision is punishable as a state jail felony in certain circumstances.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Expanding the circumstances for which a criminal penalty is applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed onto supervision in the community or sentenced to a term of confinement within state correctional institutions. From fiscal years 2018 through 2020, average of fewer than ten people were arrested, placed onto felony direct community supervision, or admitted into a state correctional institution for the state jail felony offense modified by the bill under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, DKN, LM, SPA