

1-1 By: Meza, et al. (Senate Sponsor - Whitmire) H.B. No. 1432  
1-2 (In the Senate - Received from the House May 1, 2023;  
1-3 May 1, 2023, read first time and referred to Committee on Criminal  
1-4 Justice; May 19, 2023, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Flores	X		
1-10	Bettencourt	X		
1-11	Hinojosa	X		
1-12	Huffman	X		
1-13	King	X		
1-14	Miles	X		

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to required findings for the issuance of a protective  
1-18 order.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 81.001, Family Code, is amended to read  
1-21 as follows:

1-22 Sec. 81.001. ENTITLEMENT TO PROTECTIVE ORDER. A court  
1-23 shall render a protective order as provided by Section 85.001(b) if  
1-24 the court finds that family violence has occurred [~~and is likely to~~  
1-25 ~~occur in the future~~].

1-26 SECTION 2. Section 81.0015, Family Code, is amended to read  
1-27 as follows:

1-28 Sec. 81.0015. PRESUMPTION. For purposes of this subtitle,  
1-29 there is a presumption that family violence has occurred [~~and is~~  
1-30 ~~likely to occur in the future~~] if:

1-31 (1) the respondent has been convicted of or placed on  
1-32 deferred adjudication community supervision for any of the  
1-33 following offenses against the child for whom the petition is  
1-34 filed:

1-35 (A) an offense under Title 5, Penal Code, for  
1-36 which the court has made an affirmative finding that the offense  
1-37 involved family violence under Article 42.013, Code of Criminal  
1-38 Procedure; or

1-39 (B) an offense under Title 6, Penal Code; and  
1-40 (2) the respondent's parental rights with respect to  
1-41 the child have been terminated[~~, and~~

1-42 [~~(3) the respondent is seeking or attempting to seek~~  
1-43 ~~contact with the child~~].

1-44 SECTION 3. Sections 85.001(a), (b), and (c), Family Code,  
1-45 are amended to read as follows:

1-46 (a) At the close of a hearing on an application for a  
1-47 protective order, the court shall find whether[~~+~~

1-48 [~~(1)~~] family violence has occurred[~~, and~~  
1-49 [~~(2)~~ family violence is likely to occur in the future].

1-50 (b) If the court finds that family violence has occurred  
1-51 [~~and that family violence is likely to occur in the future~~], the  
1-52 court:

1-53 (1) shall render a protective order as provided by  
1-54 Section 85.022 applying only to a person found to have committed  
1-55 family violence; and

1-56 (2) may render a protective order as provided by  
1-57 Section 85.021 applying to both parties that is in the best interest  
1-58 of the person protected by the order or member of the family or  
1-59 household of the person protected by the order.

1-60 (c) A protective order that requires the first applicant to  
1-61 do or refrain from doing an act under Section 85.022 shall include a

2-1 finding that the first applicant has committed family violence [~~and~~  
2-2 ~~is likely to commit family violence in the future~~].

2-3 SECTION 4. Section 85.002, Family Code, is amended to read  
2-4 as follows:

2-5 Sec. 85.002. EXCEPTION FOR VIOLATION OF EXPIRED PROTECTIVE  
2-6 ORDER. If the court finds that a respondent violated a protective  
2-7 order by committing an act prohibited by the order as provided by  
2-8 Section 85.022, that the order was in effect at the time of the  
2-9 violation, and that the order has expired after the date that the  
2-10 violation occurred, the court, without the necessity of making the  
2-11 finding [~~findings~~] described by Section 85.001(a), shall render a  
2-12 protective order as provided by Section 85.022 applying only to the  
2-13 respondent and may render a protective order as provided by Section  
2-14 85.021.

2-15 SECTION 5. Section 85.025(a-1), Family Code, is amended to  
2-16 read as follows:

2-17 (a-1) The court may render a protective order sufficient to  
2-18 protect the applicant and members of the applicant's family or  
2-19 household that is effective for a period that exceeds two years if  
2-20 the court finds that the person who is the subject of the protective  
2-21 order:

2-22 (1) committed an act constituting a felony offense  
2-23 involving family violence against the applicant or a member of the  
2-24 applicant's family or household, regardless of whether the person  
2-25 has been charged with or convicted of the offense;

2-26 (2) caused serious bodily injury to the applicant or a  
2-27 member of the applicant's family or household; or

2-28 (3) was the subject of two or more previous protective  
2-29 orders rendered:

2-30 (A) to protect the person on whose behalf the  
2-31 current protective order is sought; and

2-32 (B) after a finding by the court that the subject  
2-33 of the protective order [~~+~~

2-34 [~~(i)~~] has committed family violence [~~+~~ and  
2-35 [~~(ii)~~ is likely to commit family violence in  
2-36 the future].

2-37 SECTION 6. Article 7B.052, Code of Criminal Procedure, is  
2-38 amended to read as follows:

2-39 Art. 7B.052. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE  
2-40 ORDER. The court shall issue a protective order in the manner  
2-41 provided by Title 4, Family Code, if, in lieu of the finding that  
2-42 family violence occurred [~~and is likely to occur in the future~~] as  
2-43 required by Section 85.001, Family Code, the court finds that:

2-44 (1) probable cause exists to believe that an offense  
2-45 under Section 42.072, Penal Code, was committed; and

2-46 (2) the nature of the scheme or course of conduct  
2-47 engaged in by the defendant in committing the offense indicates the  
2-48 defendant is likely in the future to engage in conduct prohibited by  
2-49 Section 42.072(a)(1), (2), or (3), Penal Code.

2-50 SECTION 7. Article 7B.102, Code of Criminal Procedure, is  
2-51 amended to read as follows:

2-52 Art. 7B.102. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE  
2-53 ORDER. The court shall issue a protective order in the manner  
2-54 provided by Title 4, Family Code, if, in lieu of the finding that  
2-55 family violence occurred [~~and is likely to occur in the future~~] as  
2-56 required by Section 85.001, Family Code, the court finds that:

2-57 (1) probable cause exists to believe that an offense  
2-58 under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal  
2-59 Code, was committed;

2-60 (2) the defendant committed the offense because of  
2-61 bias or prejudice; and

2-62 (3) the nature of the scheme or course of conduct  
2-63 engaged in by the defendant in committing the offense indicates the  
2-64 defendant is likely in the future to:

2-65 (A) engage in conduct prohibited by Title 5,  
2-66 Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code; and

2-67 (B) engage in that conduct described by Paragraph  
2-68 (A) because of bias or prejudice.

2-69 SECTION 8. The changes in law made by this Act apply only to

3-1 a protective order rendered on or after the effective date of this  
3-2 Act. A protective order rendered before the effective date of this  
3-3 Act is governed by the law in effect on the date the order was  
3-4 rendered, and the former law is continued in effect for that  
3-5 purpose.

3-6 SECTION 9. This Act takes effect September 1, 2023.

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