

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. A person who is the subject of a protective order
16 under Subsection (a-1) that is effective for a period that exceeds
17 two years may file a subsequent motion requesting that the court
18 review the protective order and determine whether there is a
19 continuing need for the order not earlier than the first
20 anniversary of the date on which the court rendered an order on a
21 previous motion by the person under this subsection. After a
22 hearing on the motion, if the court does not make a finding that
23 [finds] there is no [a] continuing need for the protective order,
24 the protective order remains in effect until the date the order
25 expires under this section. Evidence of the movant's compliance
26 with the protective order does not by itself support a finding by
27 the court that there is no continuing need for the protective order.

1 If the court finds there is no continuing need for the protective
2 order, the court shall order that the protective order expires on a
3 date set by the court.

4 (c) If a person who is the subject of a protective order is
5 confined or imprisoned on the date the protective order would
6 expire under Subsection (a) or (a-1), the period for which the order
7 is effective is extended, and the order expires on the first
8 anniversary of the date the person is released from confinement or
9 imprisonment.

10 SECTION 3. Section 87.002, Family Code, is amended to read
11 as follows:

12 Sec. 87.002. MODIFICATION MAY NOT EXTEND DURATION OF ORDER.
13 A protective order may not be modified to extend the period of the
14 order's validity beyond the second anniversary of the date the
15 original order was rendered or beyond the date the order expires
16 under Section 85.025(a-1) or (c) [~~85.025(c)~~], whichever date occurs
17 later.

18 SECTION 4. The change in law made by this Act applies only
19 to an application for a protective order that is filed on or after
20 the effective date of this Act. An application for a protective
21 order filed before the effective date of this Act is governed by the
22 law in effect on the date the application is filed, and the former
23 law is continued in effect for that purpose.

24 SECTION 5. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 789 passed the Senate on April 7, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 789 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor