

- SUBJECT:** Enforcing family violence protective orders from other states
- COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment
- VOTE:** 9 ayes — Goodman, Staples, J. Jones, McClendon, McReynolds, Naishtat, A. Reyna, Smith, Williams
- 0 nays
- SENATE VOTE:** On final passage, April 22 — 30-0
- WITNESSES:** For — Christina Schneider, Texas Council on Family Violence
- Against — None
- DIGEST:** SB 1726 would establish full faith and credit provisions for enforcing family violence protective orders from other jurisdictions, including orders rendered by a military court or a court of another state, tribe or territory. The order would have to be rendered by a court with proper jurisdiction, and the respondent would have to have been given notice and an opportunity to be heard consistent with due process.
- A protective order from another jurisdiction would be presumed valid if it appeared authentic on its face. Texas courts would have to give full faith and credit to a protective order from another jurisdiction and enforce it as if it had been rendered by a Texas court.
- A protective order from another jurisdiction rendered against both the applicant and respondent would not be enforceable against the applicant unless the respondent filed a pleading seeking a protective order against the applicant and the issuing court determined that each party was entitled to a protective order.
- SB 1726 would require that law enforcement agencies to establish procedures to provide adequate information regarding persons protected by an order rendered in another jurisdiction and persons against whom the order was rendered. A protective order from another jurisdiction could be

enforced even if it was not entered into the state law enforcement information system maintained by the Department of Public Safety.

A law enforcement officer would have to rely on a copy of a protective order provided by any source and the statement by a person protected by the order that the order remained in effect unless the officer knew that the order had expired. Officers acting in good faith would not be subject to civil or criminal liability for any action arising in connection with the enforcement of a protective order issued in another jurisdiction that a court later determined was not entitled to full faith and credit.

The bill would amend the Penal Code to provide that a defendant who had violated a protective order by committing an assault or the offense of stalking would commit a third degree felony, punishable by two to 10 years in prison and an optional fine of up to \$10,000. A defendant who previously had been convicted two or more times of violating a protective order would commit a third degree felony, rather than a state jail felony as in current law.

SB 1726 would take effect September 1, 1997.

**SUPPORTERS
SAY:**

SB 1726 would help protect victims of family violence in Texas who have obtained a valid protective order from another jurisdiction, such as a military court or the court of another state. Family violence is an escalating problem, and Texas must take all available steps to protect the victims. This bill would further that goal by requiring Texas courts to give full faith and credit to foreign protective orders and police agencies to establish procedures to provide adequate information on orders from other jurisdictions. The bill would bring Texas in line with the federal Violence Against Women Act, which requires states to enact full faith and credit provisions for the enforcement of foreign protective orders.

Repeat offenders who violate family violence protective orders should receive third degree felony punishment. When the Penal Code was revised, repeat offenses were made state jail felonies, but this is inappropriate for repeated violations of a protective order.

Violating a protective order by committing an assault or the offense of stalking should be punished as a third degree felony because in this situation the offenses have escalated in seriousness and should be more seriously punished.

**OPPONENTS
SAY:**

When the Penal Code was revised, repeat offenses of violating a protective order were made state jail felonies because this is the appropriate punishment for violation of a court order. State jail felonies can carry time in a state jail, a sizeable fine, and intense supervision if the offender is placed on probation.

Texas law should not be cluttered with specific provisions for violations of a protective order involving other crimes. If the violation of a protective order involves another crime, the offender should be punished under the standard punishment for that other crime in addition to the punishment for violating the protective order. This approach would maintain uniformity in punishing offenses.