

BILL ANALYSIS

Senate Research Center
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S.B. 789
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Jurisprudence
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law provides that a protective order may be in effect for up to two years. There are no provisions that allow for a longer protective order for repeat offenders or offenders who cause serious bodily injury. If a person protected by an order is still in danger after the expiration of the order, he or she must go back to court and apply for another protective order.

S.B. 789 allows a protective order to last longer than two years if the court finds that the offender committed family violence, is likely to commit family violence in the future, and either caused serious bodily injury or was the subject of two or more previous protective orders rendered to protect the same individual. The bill will further protect victims of family violence when the abuse is severe or when the abuser is a repeat offender against the same person.

As proposed, S.B. 789 amends current law relating to the duration of a protective order against family violence.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 85.001, Family Code, by adding Subsection (d), as follows:

(d) Requires the court, if the court renders a protective order for a period of more than two years, to include in the order a finding described by Section 85.025(a-1).

SECTION 2. Amends Section 85.025, Family Code, as follows:

Sec. 85.025. DURATION OF PROTECTIVE ORDER. (a) Provides that except as otherwise provided by this section, rather than Subsection (b) or (c), an order under this subtitle is effective for the period stated in the order, not to exceed two years, or if a period is not stated in the order, until the second anniversary of the date the order was issued.

(a-1) Authorizes the court to 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 member of the applicant's family or household; or

(2) was the subject of two or more previous protective orders rendered:

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

(B) after a finding by the court that the subject of the protective order has committed family violence, and is likely to commit family violence in the future.

(b) Authorizes a person who is the subject of a protective order to file a motion not earlier than the first anniversary of the date on which the order was rendered requesting that the court review the protective order and determine whether there is a continuing need for the order. Provides that, after a hearing on the motion, if the court does not make a finding that there is no continuing need for the protective order, rather than if the court finds there is a continuing need for the protective order, the protective order remains in effect until the date the order expires under this section. Provides that evidence of the movant's compliance with the protective order does not by itself support a finding by the court that there is no continuing need for the protective order. Requires the court, if the court finds there is no continuing need for the protective order, to order that the protective order expires on a date set by the court.

(c) Provides that if a person who is the subject of a protective order is confined or imprisoned on the date the protective order would expire under Subsection (a) or (a-1), the period for which the order is effective is extended, and the order expires on the first anniversary of the date the person is released from confinement or imprisonment.

SECTION 3. Amends Section 87.002, Family Code, as follows:

Sec. 87.002. MODIFICATION MAY NOT EXTEND DURATION OF ORDER. Prohibits a protective order from being modified to extend the period of the order's validity beyond the second anniversary of the date the original order was rendered or beyond the date the order expires under Section 85.025(a-1) or (c), rather than Section 85.025(c), whichever date occurs later.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2011.