

## **BILL ANALYSIS**

Senate Research Center  
88R6075 AMF-D

H.B. 1432  
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Criminal Justice  
5/17/2023  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A protective order is a legal document that helps protect victims of family violence, dating violence, stalking, and sexual assault. To obtain a family violence protective order, one must prove that family violence has occurred and that it is likely to occur again. This is a higher standard compared to what is required to obtain a protective order for stalking, sexual assault, or human trafficking, where one simply has to prove that there are reasonable grounds to believe that the applicant is a victim of such a crime. The "likely to occur again" provision gives judges a high degree of individual discretion in deciding to grant a protective order for family violence. This discretion leads to disparities in the granting of protective orders, as this phrasing is an ambiguous standard that many survivors cannot prove definitely, thus depriving many of them of the security of a protective order.

There needs to be a consistent standard in the process to obtain a protective order by aligning the requirements with the same standard as protective orders for victims of stalking, sexual assault, and human trafficking.

H.B. 1432 removes the condition that the court find family violence is "likely to occur in the future" before issuance of a family violence protective order. This will harmonize the process to obtain a protective order to be the same standard as protective orders for victims of stalking, sexual assault, and human trafficking.

H.B. 1432 amends current law relating to required findings for the issuance of a protective order.

### **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 81.001, Family Code, to delete existing text requiring a court to render a protective order as provided by Section 85.001(b) (relating to providing that if the court finds that family violence has occurred and that family violence is likely to occur in the future, the court is required and authorized to render certain protective orders) if the court finds that family violence is likely to occur in the future.

SECTION 2. Amends Section 81.0015, Family Code, to delete existing text providing that there is a presumption, for purposes of Subtitle B (Protective Orders), that family violence is likely to occur in the future if the respondent is seeking or attempting to seek contact with the child. Makes nonsubstantive changes.

SECTION 3. Amends Sections 85.001(a), (b), and (c), Family Code, as follows:

- (a) Deletes existing text requiring the court, at the close of a hearing on an application for a protective order, to find whether family violence is likely to occur in the future.
- (b) Makes a conforming change to this subsection.

(c) Deletes existing text requiring a protective order that requires the first applicant to do or refrain from doing an act under Section 85.022, to include a finding that the first applicant has committed family violence and is likely to commit family violence in the future.

SECTION 4. Amends Section 85.002, Family Code, to make a conforming change.

SECTION 5. Amends Section 85.025(a-1), Family Code, to make conforming changes.

SECTION 6. Amends Article 7B.052, Code of Criminal Procedure, to delete existing text requiring the court to issue a protective order in the manner provided by Title 4 (Protective Orders and Family Violence), Family Code, if, in lieu of the finding that family violence occurred and is likely to occur in the future, as required by Section 85.001, Family Code, the court reaches certain findings.

SECTION 7. Amends Article 7B.102, Code of Criminal Procedure, to make conforming changes.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2023.