

- SUBJECT:** Including pets and other companion animals in protective orders
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Jackson, Lewis, S. Davis, Madden, Raymond, Thompson, Woolley
- 1 nay — Scott
- 3 absent — Bohac, Castro, Hartnett
- WITNESSES:** For — *(Registered, but did not testify:* Steve Bresnen, Texas Family Law Foundation; Katherine Kinser, Texas Family Law Foundation; Sherry Ferguson, Houston Humane Society; Monica Hardy, Texas Humane Legislation Network; Patt Nordyke, Texas Federation of Animal Care Societies; Nicole Paquette, The Humane Society of the United States; Diane Coker; Christen Flatt; Gina Hush; Adele Noel; Sallie Scott)
- Against — None
- BACKGROUND:** Family Code, sec. 85.021 allows a court to prohibit a party from removing a child from the possession of the person named in a protective order or from the jurisdiction of the court. The court also may prohibit a party from disposing of mutually owned or leased property.
- In a protective order, a court may prohibit a person who has committed family violence from committing further family violence, owning a firearm, or communicating, threatening, going near the home, workplace, or childcare facility of any person named in the protective order.
- Under Penal Code, sec. 25.07, knowingly or intentionally violating this prohibition is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000); if the person has certain multiple offenses, it is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

DIGEST: HB 323 would allow a court to prohibit a party from removing a pet or assistance animal from the person named in a protective order.

The bill would allow a court to prohibit a person who had committed family violence from harming, threatening, or interfering with the care of a pet or assistance animal possessed by any member of the household or family named in the order.

Violating this prohibition would be a class A misdemeanor; if the person has certain multiple offenses, it would be a third-degree felony.

HB 323 would take effect on September 1, 2011.

**SUPPORTERS
SAY:**

HB 323 would help protect pets and people alike by expanding the range of malicious behavior subject to prohibition in a protective order. A growing body of evidence points to a strong correlation between acts of family violence and cruelty toward animals, a link that stems from an abusive actor's desire to control the behavior of another person. A determined abuser will exploit the attachment between an animal and a human victim in order to prevent the victim from leaving the abuser, usually by threats or even actual violence against the animal. These acts sometimes take place in front of children. Since many shelters for victims of family violence do not allow pets, a victim often faces a stark dilemma — escape to a shelter and leave behind a beloved pet in possession of an abuser or jeopardize the victim's own safety by returning to a dangerous, abusive relationship.

As long as the law provides no protection for family pets, abusers will continue to have a powerful, coercive means of controlling their victims. HB 323 would empower a court to prohibit this coercion and give family violence victims and their pets additional protection from abusive actors, an approach taken by at least 11 states that have enacted similar protections.

The scope of the bill is tailored narrowly to situations involving family violence. It would not create any independent rights for animals, nor would it apply to farm animals.

**OPPONENTS
SAY:**

While the health and safety of pets and other animals is important, the people of Texas would prefer to have the Legislature focus on basic government responsibilities during this historic economic downturn.

NOTES:

The companion bill, SB 279 by Davis, passed the Senate by 31-0 on the Local and Uncontested Calendar on March 24 and was reported favorably, without amendment, by the House Judiciary and Civil Jurisprudence Committee on April 20, making it eligible to be considered in lieu of HB 323.

An identical bill, HB 853 by Laubenberg, died in conference committee during the 2009 regular session of the 81st Legislature.