

SUBJECT: Use of pseudonym by victim of sexual offense and other crimes

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 7 ayes — Driver, Garza, Hupp, Burnam, Y. Davis, Hegar, Keel

0 nays

WITNESSES: None

BACKGROUND: Code of Criminal Procedure (CCP), chapter 57 includes provisions to protect the confidentiality of identifying information about victims of sex offenses. Art. 57.01(4) defines “victim” as a person who was the subject of an offense the commission of which leads to a reportable conviction or adjudication under Art. 6252-13c.1, Revised Statutes (CCP, chapter 62), which governs the sex offender registration program.

A victim may choose a pseudonym (a set of initials or a fictitious name) to be used instead of the victim’s name in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. A victim who chooses to use a pseudonym must complete a form and return it to the agency investigating the offense. The victim may not be required to disclose his or her name, address, or telephone number in connection with investigation or prosecution of the offense. The pseudonym form is confidential and may not be disclosed to any person other than a defendant or the defendant’s attorney, except by court order. The court may order disclosure of the victim’s name, address, or telephone number only if the court finds that the information is essential in trying the defendant for the offense or that the victim’s identity is in issue. Art. 57.02(h) protects the identifying information of a victim younger than 17 years of age by prohibiting a public servant or other person who has access to or obtains such information from releasing it to any person not assisting in the investigation, prosecution, or defense of the case.

Penal Code, sec. 3.01 defines “criminal episode” as the commission of two more offenses, regardless of whether the harm is directed toward or inflicted upon more than one person or item of property, if the offenses are committed

pursuant to the same transaction or pursuant to two or more transactions that are connected or constitute a common scheme or plan, or if the offenses are the repeated commission of the same or similar offenses.

DIGEST: HB 670 would amend CCP, art. 57.01 to add to the definition of “victim” a person who was the subject of an offense that is part of the same criminal episode as an offense that leads to a reportable conviction or adjudication under the statute governing the sex offender registration program.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: HB 670 would protect the confidentiality of victims of sex offenses who also are victims of other crimes committed in the same criminal episode. Under current law, a person who is the victim of several offenses that occur in the same criminal episode may use a pseudonym only in connection with the sex offense. The press or anyone else can ascertain the victim’s true name by looking at the indictment or other court records of the nonsexual offense, circumventing the intent of the statute. For example, a person who was the victim of three crimes — aggravated kidnaping with intent to commit sexual abuse, aggravated sexual assault, and aggravated robbery — could use a pseudonym only for the first two charges. HB 670 would close this loophole and protect the privacy of victims of sexual offenses who are unfortunate enough to be victims of other, related crimes.

OPPONENTS SAY: HB 670 would go too far in restricting the information available to the public about crimes committed in their communities. The line of confidentiality should be drawn at protecting victims of sexual assault and should not extend to victims of other crimes committed in the same episode. Most news organizations are sensitive to victim confidentiality issues and refrain from publishing the names of victims of sex offenses. However, it is useful for the media to contact victims to find out details such as where the crime occurred, which can benefit the public. HB 670 would restrict the media’s ability to contact victims in cases related to sex offenses. If the sex offense charge were dropped or otherwise resolved before trial, the public still would be denied useful information about the crime.