

- SUBJECT:** Allowing lifetime protective orders for sexual assault victims
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 7 ayes — Dutton, Bolton, Farrar, Gonzalez Toureilles, Hernandez, Strama, Vaught
0 nays
2 absent — Eiland, Farias
- WITNESSES:** For — (*Registered, but did not testify:* Torie Camp, Texas Association Against Sexual Assault)
Against — None
- BACKGROUND:** Code of Criminal Procedure, ch. 7A governs protective orders for victims of sexual assault. Art. 7A.03 requires a court to issue a protective order if it finds there are reasonable grounds to believe that the applicant is the victim of sexual assault who is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender.

Art 7A.01 allows a victim of sexual assault or aggravated sexual assault, or a prosecuting attorney acting on behalf of the victim, to file an application for a protective order without regard to the relationship between the applicant and the alleged offender.

Art. 7A.04 stipulates that, unless specifically provided by ch. 7A, Family Code, Title 4 — Protective Orders and Family Violence — applies to protective orders issued under the Code of Criminal Procedure. Under Family Code, sec. 85.025, a protective order is issued for a maximum of two years. After an order has been in effect for one year, the subject of a protective order may request that the court review the circumstances, determine whether there is a continuing need for the order, and set a new expiration date, if the court sees fit.
- DIGEST:** CSHB 1988 would add Code of Criminal Procedure, art. 7A.07 to allow a protective order issued under art. 7A.03 to be effective for the duration of the lives of the offender and victim, or for any shorter period stated in the

order. If a time period was not stated, the order would be effective for two years.

The bill would amend Code of Criminal Procedure, art. 7A.01 to allow a parent or guardian acting on behalf of a person younger than age 17 who was the victim of such an offense to file an application for a protective order. It also would allow a victim age 17 or older, or a parent or guardian acting on behalf of a victim younger than age 17, to file an application at any time with the court to rescind the protective order.

If a person who was the subject of a protective order, other than an order issued for life, was confined or imprisoned on the date the protective order was due to expire, the order would be extended to expire one year after the person was released from confinement or prison.

The provisions of Family Code, sec. 85.025 would not apply to a protective order issued under this bill.

The bill would take effect September 1, 2007, and would apply only to a protective order issued on or after that date, regardless of when the offense was committed.

**SUPPORTERS
SAY:**

CSHB 1988 would prevent victims of heinous crimes from being required to relive their traumatic experiences every two years in the process of having protective orders extended against their attackers. Victims of sexual assault and aggravated sexual assault suffer every day with memories of the crime, especially victims who live in small towns where it can be difficult to stay away from the offender. People in such circumstances deserve the protection afforded by a protective order that extends for a longer period of time, perhaps even for life.

The bill would not require courts to issue protective orders for life and would not necessarily prevent review of protective orders. To allow for a change of circumstances, the victim could petition to have the protective order lifted at any time. CSHB 1988 simply would give courts the option of issuing lifetime protective orders while offering victims protection and relief from the process of having the orders renewed frequently.

**OPPONENTS
SAY:**

A lifetime protective order would be overly broad and unfair to offenders, who deserve review under process of law. Protective orders, by their nature, are supposed to be temporary, requiring periodic review of the

circumstances by a court to decide whether to extend or nullify the order. Issuing a protective order for life would reduce the effectiveness of the order over time and increase the chance that an offender would break the terms of the order at some point, perhaps without his knowledge or intent.

Requiring periodic review and extension of protective orders does not necessarily traumatize victims. Generally, a prosecutor re-files the protective order for the victim, so the victim is not required to relive the experience each time the protective order is reviewed.