

SUBJECT: Allowing protective orders for third parties affected by dating violence

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Hunter, Hughes, Hartnett, Jackson, Leibowitz, Lewis, Madden, Martinez, Woolley

0 nays

2 absent — Alonzo, Branch

SENATE VOTE: On final passage, April 2 — 31-0, on Local and Consent Calendar

WITNESSES: For — Catherine Babbitt, for Bexar County/Criminal District Attorney Susan Reed; (*Registered, but did not testify*: Laura Anderson, San Antonio Police Department; Kevin Petroff, Harris County District Attorney’s Office; Ballard C. Shapleigh, 34th Judicial District Attorney Jaime Esparza)

Against — None

BACKGROUND: Under Family Code, sec. 71.004, “family violence” means any non-defensive act by a family or household member that is intended to cause or that threatens physical harm, bodily injury, assault, or sexual assault against another family or household member. Family violence includes “dating violence,” defined under Family Code, sec. 71.0021 as an act intended to cause or threaten physical harm, bodily injury, or sexual assault committed by an individual against another with whom the individual has or has had a dating relationship. The same provision defines a “dating relationship” to mean a continuing romantic or intimate relationship between individuals. Dating violence does not include a violent or threatening act by a person against another person who is currently in a dating relationship with a third person with whom the offending actor has or has had a dating relationship or marriage.

When an actor commits an offense involving family violence or dating violence, the aggrieved party, a member of the party’s family or household, a prosecuting attorney, or the Department of Protective or

Regulatory Services may request a protective order from a court. A protective order may set restrictions on an offending actor's right to access or contact the aggrieved party or members of the party's household or family. A person involved in a dating relationship with another person cannot seek a protective order against a third party who has or had a dating relationship or marriage with the second person. The only current remedy for these individuals is to seek a civil restraining order, which may result in a fine, rather than a criminal offense.

DIGEST: CSSB 843 would amend Family Code, sec. 71.0021(a) to expand the definition of "dating violence" to include an act intended to cause or threaten bodily or sexual injury committed by an individual against another individual involved in a dating relationship with third individual with whom the actor has or has had a dating relationship or marriage.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

NOTES: A similar bill, HB 2202 by Castro, passed the House by 133-0 on April 24 and was referred to the Senate Jurisprudence Committee on April 27.