

BILL ANALYSIS

Senate Research Center

H.B. 1988
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Criminal Justice
5/16/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a protective order has a duration period of up to two years. However, certain crimes such as sexual assault and aggravated sexual assault are so egregious that it would benefit the victim if the victim was not required to renew the order every two years.

H.B. 1988 authorizes a victim of a sexual or aggravated sexual assault offense to obtain a lifetime protective order against the offender who victimized the individual.

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 Article 7A.01(a), Code of Criminal Procedure, to authorize a person who is the victim of an offense under Section 21.11 (Indecency with a Child), Penal Code, or a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of such an offense, to file an application for a protective order under this chapter without regard to the relationship between the victim and the alleged offender. Makes conforming changes.

SECTION 2. Amends Article 7A.03, Code of Criminal Procedure, is amended to read as follows:

Art. 7A.03. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER. (a) Requires the court, at the close of a hearing on an application for a protective order under this chapter (Protective Order for Victim of Sexual Assault), to find whether there are reasonable grounds to believe that the applicant is the victim of a sexual assault and is either younger than 18 years of age or, regardless of age, is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender.

(b) Makes a conforming change.

SECTION 3. Amends Chapter 7A, Code of Criminal Procedure, by adding Article 7A.07, as follows:

Art. 7A.07. DURATION OF PROTECTIVE ORDER. (a) Provides that a protective order issued under Article 7A.03 is effective for the duration of the lives of the offender and victim, or for any shorter period stated in the order. Provides that the order is effective until the second anniversary of the date the order was issued if a period is not stated in the order.

(b) Provides that Section 85.025 (Duration of Protective Order), Family Code, does not apply to the protective order.

(c) Authorizes a victim who is 17 years of age or older or a parent or guardian acting on behalf of a victim who is younger than 17 years of age to file at any time an application with the court to rescind the protective order.

(d) Provides that, if a person who is the subject of a protective order issued under Article 7A.03 is confined or imprisoned on the date the protective order is due to expire under Subsection (a), the period for which the order is effective is extended, and the order expires on the first anniversary of the date the person is released from confinement or imprisonment.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2007.