

SUBJECT: Prosecuting attorney for family violence protective order cases

COMMITTEE: Juvenile Justice and Family Issues-committee substitute recommended

VOTE: 7 ayes — Goodman, Brady, H. Cuellar, De La Garza, Naishtat, Puente, Van de Putte

0 nays

2 absent — Cook, Williamson

SENATE VOTE: On final passage, February 1 — voice vote

WITNESSES: For — None

Against — None

On — John J. Sampson

BACKGROUND: Family Code Title 4, enacted in 1979, allows victims of family violence to seek protective orders and temporary protective orders from a court. Violations of protective orders may be a criminal offense.

The county attorney or criminal district attorney is responsible for filing protective order applications. District attorneys who assume this responsibility must notify the county attorney.

DIGEST: CSHB 283 would designate the district attorney as the prosecuting attorney responsible for filing applications for protective orders unless the district attorney transferred the responsibility to the county attorney, who would then be responsible.

The prosecuting attorney responsible for filing protective order applications in a particular county would be required to provide notice of that responsibility to all law enforcement agencies in the prosecuting attorney's jurisdiction.

The bill would take effect September 1, 1995.

SUPPORTERS SAY: SB 283 would help clarify which prosecutor is responsible for family violence applications. Recent testimony in committee has shown that in some areas of the state, confusion exists as to which prosecuting attorney is responsible for filing the applications. Often victims find themselves in a bureaucratic maze in which the county attorney thinks the district attorney is responsible for filing the application and vice versa. At a time when a victim needs immediate assistance, this type of confusion can prove frustrating and disheartening.

OPPONENTS SAY: No apparent opposition

NOTES: The committee substitute provides that the district attorney would be the prosecuting attorney responsible for filing applications for protective orders unless the district attorney transferred that responsibility to the county attorney. The Senate-passed version provided that the county attorney or the criminal district attorney would be the prosecuting attorney responsible unless the district attorney assumed the responsibility by giving notice to the county attorney.

HB 418 by Goodman, which passed the House on May 3, would require counties to designate a prosecuting attorney to file family violence protective order applications. If no designation was made, the district attorney would be responsible. A district attorney who assumed responsibility for the orders would be required to notify all law enforcement entities of that fact. HB 418 is awaiting a hearing in the Senate Jurisprudence Committee.