

SUBJECT: Emergency protective orders for sexual assault, aggravated sexual assault

COMMITTEE: Criminal Jurisprudence — favorable without amendment

VOTE: 6 ayes — Peña, Vaught, Riddle, Escobar, Mallory Caraway, Pierson

0 nays

3 absent — Hodge, Moreno, Talton

WITNESSES: For — Torie Camp, Texas Association Against Sexual Assault;
(*Registered, but did not testify:* Christin Evans, Safer Online Dating Alliance; Tom Gaylor, Texas Municipal Police Association; Lance Long, Harris County District Attorney's Office; Amy Mills, Tarrant County District Attorney's Office; Ana Rodriguez, Texas Council on Family Violence)

Against — None

BACKGROUND: Under Code of Criminal Procedure, art. 17.292(a), magistrates are authorized to issue emergency protective orders for family violence and stalking offenses on their own motion or the motion of victims, peace officers, or prosecutors.

It is an offense under Penal Code, sec. 25.07 to violate emergency protective orders by committing family violence, stalking, or other specified acts. A first offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). A violation of a protective order by committing assault or stalking, however, is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

DIGEST: HB 1907 would add sexual assault and aggravated sexual assault to the list of offenses for which magistrates are authorized to issue emergency protective orders. The bill also would add sexual assault and aggravated sexual assault to the list of crimes that are third-degree felonies for violating a protective order.

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, 2007. It would apply only to defendants arrested on or after the effective date.

**SUPPORTERS
SAY:**

HB 1907 is necessary to ensure that victims of sexual assault and aggravated sexual assault were afforded the same protections through emergency protective orders that is given to victims of family violence and stalking. Emergency protective orders, which are in effect for 31 to 61 days, are designed to bridge the gap between the arrest of an offender and the issuance of a regular protective order. They are used for serious crimes in which victims have reason to be afraid of their attackers, and sexual assault and aggravated sexual assault fit these parameters. The use of protective orders that would be established by the bill is both warranted and appropriate.

Protective orders and the conditions they carry are reasonable. They are designed to keep victims safe and afford them some peace of mind. HB 1907 especially would be useful in situations where a victim's attacker was a coworker, student, or other person they knew. Victims should not have to wait until a defendant who has already been arrested for sexual assault or aggravated sexual assault stalks them before an emergency protective order can be issued.

**OPPONENTS
SAY:**

The Legislature should be cautious about expanding emergency protective orders. Emergency protective orders pose some risks of abuse, because no hearing is required before these orders are issued, and charges may never be brought against alleged offenders. Emergency orders also place conditions on alleged offenders that may be inappropriate in some sexual assault cases. Orders for emergency protection under current law are sufficient to address the threats posed by sexual assault perpetrators who then stalk their alleged victims.

NOTES:

The companion bill, SB 584 by Carona, passed the Senate on the Local and Uncontested Calendar on April 12 and been referred to the House Criminal Jurisprudence Committee.