

- SUBJECT:** Protective order and pseudonym for trafficking victims
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 11 ayes — Jackson, Lewis, Bohac, Castro, S. Davis, Hartnett, Madden, Raymond, Scott, Thompson, Woolley
- 0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Diana Martinez, TexProtects, The Texas Association for the Protection of Children)
- Against — None
- On — David Boatright, Office of the Attorney General; (*Registered, but did not testify:* Abbey Fowler, Office of the Attorney General)
- BACKGROUND:** A victim of trafficking is a person subjected to forced labor or services, including prostitution. Victims of domestic violence and sexual assault currently are able to apply for a protective order and receive a pseudonym. Current law does not contain similar provisions for trafficking victims. These protections can help victims feel secure and make them more likely to cooperate with law enforcement and prosecutors.
- DIGEST:** HB 2329 would allow a trafficking victim to file an application for a protective order and choose a pseudonym.
- Protective order.** The bill would allow a trafficking victim, a parent or guardian of a victim under 18, or a prosecuting attorney to file an application for a protective order. The application could be filed in a district court, juvenile court with the jurisdiction of a district court, statutory county court, or constitutional county court in:
- the county where the applicant resided; or
  - the county where the alleged offender resided.
- If the court found a clear and present danger that the offender would traffic the applicant or the victim would otherwise suffer harm, the court, without

further notice to the alleged offender and without a hearing, could enter a temporary ex parte order.

If the court found that the applicant was a trafficking victim and either younger than 18 or, regardless of age, the subject of a threat that reasonably placed him or her in fear of further harm from the alleged offender, the court would have to issue a protective order.

The court could specify certain conditions in the protective order, including:

- ordering the alleged offender to take action as specified by the court to prevent or reduce the likelihood of future harm to the applicant or a member of his or her family or household; or
- prohibiting the alleged offender from:
  - communicating with the applicant or a member of his or her family or household in a threatening or harassing way;
  - going to or near the residence, workplace, or child care facility or school of the applicant or member of his or her family or household;
  - following or otherwise harassing, alarming, abusing, or embarrassing the applicant or a member of his or her family or household; and
  - possessing a firearm.

Each protective order would have to contain prominently displayed warnings about the consequences of violating the order and other matters.

A protective order could be effective for the entire lives of the offender and victim or for any shorter period stated in the order. If a period was not stated in the order, the order would be effective until two years after it was issued. If a person who was the subject of a protective order was confined or imprisoned on the date the protective order was due to expire, the effective period of the order would be extended, and the order would expire one year after the person was released from confinement or imprisonment.

**Pseudonym.** A trafficking victim would be able to choose a pseudonym to use in all public files and records concerning the offense. The attorney general would be required to develop and distribute to all Texas law enforcement agencies a pseudonym form to record the name, address,

telephone number, and pseudonym of a victim by October 1, 2011. A victim wishing to adopt a pseudonym would be required to complete a pseudonym form and return the form to law enforcement. A completed and returned form would be confidential and could not be disclosed to any person other than a defendant in the case or the defendant's attorney, except on a court order.

If a victim completed and returned a pseudonym form to law enforcement, then law enforcement agency would be required to:

- remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the agency's possession;
- notify the attorney for the state of the pseudonym; and
- maintain the form in a manner that protected the form's confidentiality.

An attorney for the state who received notice that a victim had elected to be designated by the pseudonym would be required to ensure that the victim was designated by the pseudonym in all legal proceedings concerning the offense.

A public servant with access to the name, address, or phone number of a victim 18 or older who chose a pseudonym would commit a class C misdemeanor (maximum fine of \$500) if he or she knowingly disclosed any of the information to any person who was not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or a person specified in a court order.

It would be an affirmative defense to the prosecution of the disclosure of these details if the actor was the victim or the victim's parent, conservator, or guardian, unless that person allegedly committed the offense.

**Effective date.** The bill would take effect on September 1, 2011, unless otherwise provided.