

SUBJECT: Protective orders for victims of sexual, stalking, and trafficking offenses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Herrero, Carter, Burnam, Canales, Leach, Moody, Schaefer,
Toth

0 nays

1 absent — Hughes

SENATE VOTE: On final passage, April 25 — 30-0, on Local and Uncontested Calendar

WITNESSES: (*On companion bill, HB 1292:*)

For — Carlos Salinas, Alliance for Texas Families; (*Registered, but did not testify:* Lon Craft, Texas Municipal Police Association; Bobby Gutierrez and Kirsha Haverlah, Justice of Peace and Constables Association; Ann Hettinger, Concerned Women For America; Marshall Kenderdine, Texas Pediatric Society; Erlinda Kindel, Catholic Advocacy Day; Diana Martinez, TexProtects, The Texas Association for the Protection of Children; Jason Sabo, Children at Risk; Aaron Setliff, The Texas Council on Family Violence; Corinne Smith, North Texas Citizens Lobby; Glenn Stockard, Texas Association Against Sexual Assault; and 24 individuals

Against — None

BACKGROUND: Code of Criminal Procedure (CCP), ch. 7A covers protective orders for certain victims of sex trafficking, sexual assault, and stalking.

Art. 7A.01 authorizes victims of specific offenses, parents or guardians of these victims, and prosecutors to file applications for protective orders. Two similar, but not identical, sections were added in 2011 by the 82nd Legislature that list the types of offenses for which the protective orders may be issued. One section was added through the enactment of SB 250 by Zaffirini and one through SB 24 by Van de Putte, et al. Together, the sections allow applications for protective orders to be filed for continuous sexual abuse of a young child, indecency with a child, sexual assault,

aggravated sexual assault, stalking, and sex trafficking.

CCP, art. 7A.01(b) establishes the venue for the filing of applications for these protective orders. Applications may be filed in the county in which the applicant lives or the county in which the alleged offender lives.

The CCP also contains two articles labeled 7A.03, both added in 2011 by the 82nd Legislature. One section was added by SB 250 and the other by HB 649 by Gallego. Both sections establish the findings that courts must make when determining whether to issue the protective orders.

The two sections are similar, but not identical. The section from SB 250 requires courts to find whether there are reasonable grounds to believe that the applicant was a victim of sexual assault or stalking. The section from HB 649 requires courts to find whether there are reasonable grounds to believe that the applicant was a victim of sexual assault.

DIGEST:

SB 357 would merge and reenact the two sections of CCP art. 7A.03 that were enacted by the 82nd Legislature in SB 250 and HB 649, resulting in one section requiring courts to make certain findings when determining whether to issue a protective order under CCP, ch. 7A.

The bill would add victims of trafficking and sexual abuse to the types of victims for which the court could make findings when considering an application for a protective order under CCP, ch. 7A. SB 357 would require judges to find whether there were reasonable grounds to believe that an applicant for a protective order was a victim of sexual assault or abuse, stalking, or trafficking.

SB 357 would expand the venues in which victims of sexual assault, stalking, and trafficking could apply for protective orders. The bill would allow them to be filed in any county in which an element of the alleged offense occurred or any court with jurisdiction over family violence protective orders under Family Code, title 4 if the same parties were involved.

The bill would take effect September 1, 2013, and would apply only to protective orders issued on or after that date.

**SUPPORTERS
SAY:**

SB 357 would harmonize sections of CCP, ch. 7A dealing with applications for protective orders for victims of continuous sexual abuse of

a young child, indecency with a child, sexual assault, aggravated sexual assault, stalking, and sex trafficking after more than one bill amended the law in 2011.

Two of these bills, taken together, amended art. 7A.03, which requires courts considering this type of protective order to find whether there are reasonable grounds to believe the applicant was a victim of sexual assault or stalking. However, other sections of ch. 7A allow protective orders to be issued for other offenses, and neither version of sec. 7A.03 added in 2011 provides for a finding that an applicant was a victim relating to those offenses.

SB 257 would clear up confusion over these sections by adding trafficking and sexual abuse to the list of findings judges could make in these situations. This would make it clear that findings could be made for all the crimes for which victims can apply for protective orders.

The bill also would give victims of sexual assault, stalking, and trafficking additional options for filing applications for protective orders. Current law allows them to be filed only in the county in which either the victim or the alleged perpetrator lives, which can raise safety concerns with these types of crimes. The bill would expand the venues so that applications could be filed where the offense occurred or in a court with jurisdiction over a previously issued order relating to family violence.

This would be consistent with SB 129 by Nelson, which would allow the same option for family violence protective orders and was approved by the House on the May 14 Local, Consent, and Resolutions calendar.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

An identical provision relating to the findings that could be made when considering protective order applications was included in HB 8 by S. Thompson, et al., which was passed by the House on April 17 and referred to the Senate Criminal Justice Committee.

The companion bill, HB 1292 by Anchia, was placed on the May 9 House General State Calendar but not considered.