

SUBJECT: Allowing stalking victims to use pseudonyms in files, records of offense

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Herrero, Moody, Canales, Hunter, Leach, Shaheen, Simpson

0 nays

WITNESSES: For — David Mintz, Texas Apartment Association; (*Registered, but did not testify*: Chris Kaiser, Texas Association Against Sexual Assault; Steve Bresnen, Texas Family Law Foundation; Aaron Setliff, the Texas Council on Family Violence; Lon Craft, Texas Municipal Police Association; Jeffrey Knoll)

Against — (*Registered, but did not testify*: Patricia Cummings, Texas Criminal Defense Lawyers Association)

On — (*Registered, but did not testify*: Kristen Huff, Office of the Attorney General)

DIGEST: CSHB 1293 would allow a victim of an alleged stalking offense to choose to use a pseudonym instead of the person's name in public files and records concerning the offense. These records would include police summary reports, press releases, and records of judicial proceedings.

To elect to use a pseudonym, a victim would have to complete a form developed by the attorney general and return the form to the law enforcement agency investigating the offense. Victims who returned the form could not be required to disclose their name, address, or phone number in connection with the investigation or prosecution of the crime.

The forms would be confidential and could not be disclosed to anyone other than the victim, a defendant in the case, or the defendant's attorney, unless required by a court. Courts could order disclosure of the victim's name and other information only if they found that the information was essential in the trial for the offense, the identity of the victims was in

issue, or the disclosure was in the best interest of the victim.

Law enforcement agencies receiving a completed form from a victim would be required to:

- remove the victim's name and substitute the pseudonym on reports, files, and records;
- notify the prosecutor that the victim chose to use the pseudonym;
- give the victim a copy of the completed form; and
- keep the form in a way that protects its confidentiality.

Prosecutors receiving notice of the use of a pseudonym would have to ensure that the victim was designated by the pseudonym in all legal proceedings.

Except as allowed by other laws or a court order, public servants or others with access to the name and other information of a stalking victim younger than 17 could not release the information to anyone who was not assisting in the investigation, prosecution, or defense of the case. This would not apply to the release of information by victims or their parents or guardians, unless the parent or guardians allegedly committed the stalking.

The attorney general would be required to develop by October 1, 2015, a pseudonym form for victims to use to record their name, address, phone number, and pseudonym.

Public servants with access to the name and other information of victims 17 years old or older who chose to use a pseudonym would commit a class C misdemeanor (maximum fine of \$500) if they knowingly disclosed the name, address, or telephone number of the victim to anyone who was not assisting in the investigation or prosecution of the offense or to anyone other than defendants, their attorneys, or anyone in a court order.

Unless allowed by law, public servants or other people would commit a

class C misdemeanor if they had access to or obtained the name and other information of a victim younger than 17 years old and knowingly disclosed the information to anyone not assisting in the investigation or prosecution of the offense or to anyone other than defendants, their attorneys, or someone in a court order. It would be an affirmative defense to prosecution in these cases involving victims younger than 17 if the person disclosing the information was the victim or the victim's parent or guardian, unless the parent or guardian allegedly committed the offense.

The bill would not affect a stalking victim's responsibility to provide certain information to landlords when seeking to terminate a lease. In these situations, the pseudonym report would have to be provided to landlords if law enforcement reports identified a victim by a pseudonym.

The bill would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

CSHB 1293 is needed to ensure the safety of stalking victims by allowing them to keep their personal contact information from appearing in public files relating to their case. Stalking victims can face increased danger when law enforcement authorities become involved in the case because some stalkers may escalate their violence. Using a pseudonym to keep their identity anonymous could help protect these victims.

The bill would help protect stalking victims by allowing them the option to use a pseudonym in police, judicial, and public records. This option currently is available to victims of trafficking, certain sex offenses, and family violence offenses and should be available to stalking victims as well. CSHB 1293 would track provisions allowing for pseudonyms for victims of these other offenses. While using a pseudonym may not be necessary in some stalking cases because victims and the accused are aware of their situation, victims are in the best position to determine if a pseudonym is needed for their safety.

CSHB 1293 would not violate defendants' rights or be unfair to them as a victim's true identity could be disclosed to defendants and their attorneys. Courts would have the necessary discretion to make disclosure under

certain conditions in CSHB 1293, including if the information were essential in a trial.

The bill would be a logical, small extension of current law that allows certain victims with unique safety needs discretion about making certain information public. CSHB 1293 is narrowly drawn and would not harm the public's right to know about the criminal justice system or formal criminal justice proceedings.

The bill would ensure that if a victim using a pseudonym needed to terminate a lease as allowed by current law, the pseudonym form information could be shared with landlords.

**OPPONENTS  
SAY:**

Absent a compelling need, the state should not expand the circumstances under which victims can use pseudonyms, and this bar is not reached by CSHB 1293. Alleged stalking victims are similar to numerous other victims who are required to use real names in public documents and government records relating to criminal cases. In general, the state should not chip away at the public's right to know what is occurring in the criminal justice system.