

SUBJECT: Protective orders for continuous trafficking victims; victim information

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

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

0 nays

WITNESSES: For — Chris Kaiser, Texas Association Against Sexual Assault; Andria Brannon; (*Registered, but did not testify*: Kathryn Freeman, Christian Life Commission; Melinda Smith, CLEAT, the Combined Law Enforcement Associations of Texas; Jessica Anderson, Houston Police Department; Lon Craft, TMPA; Julie Bassett)

Against — None

BACKGROUND: Code of Criminal Procedure, Art. 7A.01(a) governs protective orders issued for victims of sexual assault or abuse, stalking, and trafficking. Under the provisions, victims of certain crimes, their parents or guardians, and prosecutors acting on behalf of the victims may file applications with courts for protective orders without regard to their relationship to alleged offenders. Victims of trafficking of persons and compelling prostitution are included among those who may file such applications.

Code of Criminal Procedure Art. 56.021 gives victims of sexual assault and their guardians and the close relatives of deceased victims certain rights, many of which relate to information about evidence in their case.

DIGEST: CSHB 1447 would add victims of the offense of continuous trafficking of persons to the list of those who could file an application with a court for a protective order without regard to their relationship to the alleged offender. Parents or guardians acting on behalf of a continuous trafficking victim younger than age 18 also could file applications for a protective order.

The bill would add rights relating to the filing of protective orders to the

list of rights afforded specifically to victims of certain sex crimes. The rights added by CSHB 1447 would apply to victims and parents or guardians of victims of the following crimes: trafficking of persons, continuous trafficking of persons, continuous sexual abuse of young children, indecency with a child, sexual assault, aggravated sexual assault, stalking, and compelling prostitution.

CSHB 1447 would give such victims and their parents or guardians the right to be informed:

- that they may file an application for a protective order; and
- of the court in which to file the application.

It also would give such victims and their parents or guardians the right to have a prosecutor, upon their request, file an application for a protective order on their behalf and to be informed of this right.

If a victim or victim's parent or guardian were present when a defendant was convicted or placed on deferred adjudication, they would have the right to receive the above information from the court. If the convicting court had jurisdiction over protective orders in cases of sexual assault or abuse, stalking, or trafficking, victims could immediately file a request for an order. If the victim or the victim's parent or guardian were not present at sentencing, that person would have the right to receive the above information from the prosecutor.

CSHB 1447 would take effect September 1, 2015, and would apply to victims of a crime for which a judgment was entered or a grant of deferred adjudication made on or after that date, regardless of when the offense occurred.

**SUPPORTERS  
SAY:**

CSHB 1447 would include victims of the crime of continuous trafficking of persons among victims of similar crimes who may get protective orders under procedures designed specifically for victims of sexual assault or abuse, stalking, or trafficking. The continuous trafficking of persons is similar in nature to these other crimes, and continuous trafficking victims

warrant access to the same procedures to protect themselves, if necessary.

Other provisions of the bill are needed to ensure that victims of sexual assault, trafficking, stalking, and other similar offenses receive information about requesting protective orders that could help keep them safe. The state has enacted specific procedures for protective orders involving these crimes, but not all victims are aware of the availability of the orders or the procedures to request them.

CSHB 1447 would address this problem by giving victims the right to information about protective orders and how to request them. The bill would set up a process so that upon sentencing, victims or their families received information from courts or prosecutors about requesting a protective order. Because of the intimate nature of sexual assault and abuse, stalking, and trafficking, these victims can be especially vulnerable and deserve an explicit right to protective order information.

It is especially important that these victims receive this information upon sentencing because at that time, protections that may have been afforded by a bond would expire. CSHB 1447 would make sure that victims received protective order information whether or not they were present during sentencing.

CSHB 1447 would address the providing of information only. Decisions about issuing protective orders would continue to be made by judges.

OPPONENTS  
SAY:

CSHB 1447 should take a more limited approach by giving victims the right to *request* that a prosecutor file a protective order rather than the right to have the prosecutor file one. Elected prosecutors act within their discretion in the best interests of justice, and while victims should be told of the option to file a protective order, the filing of the order itself should not be made a right for victims. It would be more appropriate to require prosecutors to give victims information about their right to request a protective order. Prosecutors give other information to victims, so it would not be burdensome to require them to include information about protective orders for certain crimes.

NOTES:

Rep. Dale plans to offer a floor amendment that would amend CSHB 1447's provisions giving victims the right to have a prosecutor file an application for a protective order so that instead victims had the right to request that a prosecutor file a protective order application.

HB 1447 as filed would have required prosecutors to promptly file an application for a protective order on behalf of victims upon a conviction for continuous sexual assault of young children, indecency with a child, sexual assault, and aggravated sexual assault. The committee substitute eliminated this requirement and added all the provisions in CSHB 1447.

A companion bill, SB 630 by Rodriguez, was approved by the Senate on March 25.