

BILL ANALYSIS

Senate Research Center

H.B. 1447
By: Dale et al. (Rodriguez)
Administration
5/22/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that a protective order is not currently required to be issued with respect to a person convicted of sexual assault and other related offenses until after the offender has been released from prison. The parties raise concern that issuing such an order after an offender's release from prison is sometimes impossible as law enforcement often has a difficult time locating the offender after release.

H.B. 1447 as engrossed seeks to provide victims of sexual assault and other related offenses greater peace of mind and to ease a victim's burden of filing an application for a protective order by revising the laws relating to such a protective order.

H.B. 1447 amends current law relating to protective orders for certain victims of sexual assault or abuse, stalking, or trafficking.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 7A.01(a), Code of Criminal Procedure, as follows:

(a) Authorizes the following person to file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender:

(1) Makes no change to this subdivision;

(2) a person who is the victim of an offense under Section 20A.02 (Trafficking of Persons), 20A.03 (Continuous Trafficking of Persons), or 43.05 (Compelling Prostitution), Penal Code;

(3) and (4) Makes no change to these subdivisions;

(5) a prosecuting attorney acting on behalf of a person described by Subdivision (1) (relating to a person who is the victim of an offense under Section 21.02, 21.11, 22.011, 22.021, or 42.072, Penal Code), (2) (relating to a person who is the victim of an offense under Section 20A.02 or 43.05, Penal Code), (3) (relating to a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of an offense listed in Subdivision (1)), or (4) (relating to a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of an offense listed in Subdivision (2)), rather than Subdivision (1) or (2).

SECTION 2. Amends the heading to Article 56.021, Code of Criminal Procedure, to read as follows:

Art. 56.021. New heading: RIGHTS OF VICTIM OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

SECTION 3. Amends Article 56.021, Code of Criminal Procedure. by adding Subsection (d), as follows:

(d) Provides that this subsection applies only to a victim of an offense under Section 20A.02, 20A.03, 21.02 (Continuous Sexual Abuse of Young Child or Children), 21.11 (Indecency With a Child), 22.011 (Sexual Assault), 22.021 (Aggravated Sexual Assault), 42.072 (Stalking), or 43.05, Penal Code. Entitles a victim described by this subsection or a parent or guardian of the victim, in addition to the rights enumerated in Article 56.02 (Crime Victims' Rights) and, if applicable, Subsection (a) of this article, or a parent or guardian of the victim, to the following rights within the criminal justice system:

(1) the right to request that the attorney representing the state, subject to the Texas Disciplinary Rules of Professional Conduct, file an application for a protective order under Article 7A.01 on behalf of the victim;

(2) the right to be informed:

(A) that the victim or the victim's parent or guardian, as applicable, may file an application for a protective order under Article 7A.01;

(B) of the court in which the application for a protective order may be filed; and

(C) that, on request of the victim or the victim's parent or guardian, as applicable, and subject to the Texas Disciplinary Rules of Professional Conduct, the attorney representing the state may file the application for a protective order;

(3) if the victim or the victim's parent or guardian, as applicable, is present when the defendant is convicted or placed on deferred adjudication community supervision, the right to be given by the court the information described by Subdivision (2) and, if the court has jurisdiction over applications for protective orders that are filed under Article 7A.01(Application for Protective Order), the right to file an application for a protective order immediately following the defendant's conviction or placement on deferred adjudication community supervision; and

(4) if the victim or the victim's parent or guardian, as applicable, is not present when the defendant is convicted or placed on deferred adjudication community supervision, the right to be given by the attorney representing the state the information described by Subdivision (2).

SECTION 4. Provides that the change in law made by this Act applies to a victim of criminally injurious conduct for which a judgment of conviction is entered or a grant of deferred adjudication is made on or after the effective date of this Act, regardless of whether the criminally injurious conduct occurred before, on, or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2015.