

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 630
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Chapter 7A, Code of Criminal Procedure, provides for civil protective orders for victims of sexual assault and abuse, stalking, and human trafficking. During a criminal proceeding, courts typically place conditions on defendants' bond, rather than protective orders, to ensure no contact between defendants and victims. However, because bond conditions do not apply after a criminal proceeding, these protections do not extend to a defendant's period of community supervision or at the time of release from prison. A protective order issued after conviction would cover victims after the prosecution and, under Section 85.025(c), Family Code, would extend at least one year after an offender's release.

C.S.S.B. 630 amends Article 7A.01 (Application for Protective Order), Code of Criminal Procedure, to allow victims of Continuous Trafficking of Persons to apply for civil protective orders under that article. The bill also amends Article 56.021 (Rights of Victim of Sexual Assault), Code of Criminal Procedure, to strengthen post-conviction and post-offender-release protections for victims of sexual assault and abuse, stalking, and human trafficking.

C.S.S.B. 630 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 persons to file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender:

(1) a person who is the victim of an offense under Section 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), or 42.072 (Stalking), Penal Code;

(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) 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);

(4) 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); or

(5) a prosecuting attorney acting on behalf of a person described by Subdivision (1), (2), (3), or (4).

Makes a nonsubstantive change.

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

Art. 56.021. 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 (Trafficking of Persons), 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 (Compelling Prostitution), 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) (relating to certain enumerated rights within the criminal justice system for the victim, the guardian of a victim, or close relative of a deceased victim if the offense is a sexual assault) of this article, to the following rights within the criminal justice system:

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

(3) if the victim or 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, 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 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.