

BILL ANALYSIS

Senate Research Center

S.B. 817
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current sections of the Family Code dealing with issuance of protective orders in the case of abuse, specifically the definitions sections, refer to the applicant of the protective order as a “victim” instead of an “applicant for a protective order.” There are many times when an “applicant for a protective order” is not a victim of abuse (e.g., a prosecutor or a parent or guardian), but is applying for the protective order on behalf of a victim of abuse. In addition, some judges either will not or are reluctant to issue protective orders until the perpetrator has been convicted, believing that a person is not a “victim” until that happens.

S.B. 817 changes the language from “victim” to “applicant for a protective order.” This bill also seeks to broaden the definition of “abuse” in the same section by incorporating, by reference, additional portions of the Family Code definition of “abuse.”

The committee substitute for S.B. 817 left the word “victim” in place and added “or an applicant for a protective order” to ensure the term “victim” remains intact for purposes of references in other parts of the Family Code and Penal Code. In addition, S.B. 817 removes references to Sections 261.001(1)(A) and (B), which deal with mental injury or impairment, due to concerns that protective orders are issued in a short time frame, which generally does not allow sufficient time for a professional evaluation.

S.B. 817 amends current law relating to the issuance of a protective order and the appointment of a managing conservator in certain family law proceedings.

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 Section 71.0021(a), Family Code, to redefine “dating violence” to change references to victim to victim or applicant for a protective order.

SECTION 2. Amends Section 71.004, Family Code, to redefine “family violence” to include additional sections of the Family Code in the definition of the term abuse.

SECTION 3. Amends Section 153.005, Family Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that, in a suit, except as provided by Section 153.004, the court:

(1) and (2) Creates these subdivisions from existing text. Makes nonsubstantive changes.

(c) Requires the court to consider, in making an appointment authorized by this section, whether, preceding the filing of the suit or during the pendency of the suit:

- (1) a party engaged in a history or pattern of family violence, as defined by Section 71.004 (Family Violence);
- (2) a party engaged in a history or pattern of child abuse or child neglect; or
- (3) a final protective order was rendered against a party.

SECTION 4. Provides that the changes in law made by this Act to Sections 71.0021 (Dating Violence) and 71.004, Family Code, apply only to a request for a protective order that is filed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION. 5. Provides that Section 153.005 (Appointment of Sole or Joint Managing Conservator), Family Code, as amended by this Act, applies only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2015.