BILL ANALYSIS

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 leaves the word "victim" in place and adds "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, C.S.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.

C.S.S.B. 817 amends current law relating to the definitions of dating violence and family violence for purposes of the issuance of a protective order.

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. Makes application of this Act prospective in regard to a request for a protective order.

SECTION 4. Effective date: September 1, 2015.