

BILL ANALYSIS

C.S.S.B. 630
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that a protective order is not currently required to be issued with respect to a person convicted of certain sexual assault or abuse, stalking, or trafficking 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. C.S.S.B. 630 seeks to provide victims of these 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.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 630 amends the Code of Criminal Procedure to authorize a person who is a victim of a continuous trafficking of persons offense and a prosecuting attorney acting on behalf of a person who is the victim of a continuous trafficking of persons offense, acting on behalf of a parent or guardian acting on behalf of a person younger than 17 years of age who is a victim of certain sexual offenses, certain sexual assaultive offenses, or a stalking offense, or acting on behalf of a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of certain trafficking offenses or a compelling prostitution offense to file an application for a protective order without regard to the relationship between the applicant and the alleged offender. The bill entitles certain victims of certain sexual offenses, certain sexual assaultive offenses, a stalking offense, certain trafficking offenses, or a compelling prostitution offense and the victim's parent or guardian to the following rights:

- the right to request that the attorney representing the state, subject to the Texas Disciplinary Rules of Professional Conduct, file a protective order application on behalf of the victim;
- the right to be informed that the victim or the victim's parent or guardian, as applicable, may file a protective order application; to be informed of the court in which the application may be filed; to be informed that, on request of the victim or of 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;
- the right to be given by the court, 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 information of the court in which the protective order

application may be filed and, if the court has jurisdiction over protective order applications, the right to file an application immediately following the defendant's conviction or placement on deferred adjudication community supervision; and

- the right to be given by the attorney representing the state the information of the court in which a protective order application may be filed, 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.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 630 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Article 7A.01(a), Code of Criminal Procedure, is amended.

SECTION 2. The heading to Article 56.021, Code of Criminal Procedure, is amended.

SECTION 3. Article 56.021, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) This subsection applies only to a victim of an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 42.072, or 43.05, Penal Code. In addition to the rights enumerated in Article 56.02 and, if applicable, Subsection (a) of this article, a victim described by this subsection or a parent or guardian of the victim is entitled 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

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Same as engrossed version.

SECTION 3. Article 56.021, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) This subsection applies only to a victim of an offense under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 42.072, or 43.05, Penal Code. In addition to the rights enumerated in Article 56.02 and, if applicable, Subsection (a) of this article, a victim described by this subsection or a parent or guardian of the victim is entitled 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 of the

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. 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. This Act takes effect September 1, 2015.

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, 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. Same as engrossed version.

SECTION 5. Same as engrossed version.