

BILL ANALYSIS

H.B. 1907
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Texas law provides that a magistrate's orders for emergency protection may be issued at a defendant's appearance before a magistrate after arrest for an offense involving family violence, including dating violence, or stalking.

This remedy is not available to a person who is sexually assaulted by a stranger or a friend/acquaintance in a non-dating relationship such as a classmate, coworker or neighbor. For example, a college student who is raped by someone in their dorm cannot apply for a magistrate's order for emergency protection against the perpetrator.

H.B. 1907 will allow magistrates to issue an order for emergency protection on defendants who have been arrested for sexual assault or aggravated sexual assault regardless of the relationship between the victim and the perpetrator. Additionally, the bill specifies that committing an act in furtherance of sexual assault and/or aggravated sexual assault would be a violation of the protective order.

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

House Bill 1907 amends Article 17.292(a), Code of Criminal Procedure, to include the offenses of sexual assault under Section 22.011, Penal Code, and aggravated sexual assault under Section 22.021, Penal Code, as offenses for which a magistrate may issue an order for emergency protection.

The bill also amends Article 25.07(a), Penal Code, that a person commits an offense if, in violation of an order issued under Section 6.504 or Chapter 85, Family Code; under Article 17.292, Code of Criminal Procedure; or by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally commits an act in furtherance of an offense of sexual assault or aggravated sexual assault.

Makes application of this Act prospective.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.