

By: Hegar, et al.

S.B. No. 789

Substitute the following for S.B. No. 789:

By: Pena

C.S.S.B. No. 789

A BILL TO BE ENTITLED

AN ACT

relating to the issuance of a protective order for a victim of the offense of sexual assault, aggravated sexual assault, or indecency with a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 7A.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who is the victim of an offense under Section 21.11, 22.011, or 22.021, Penal Code, a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of such an offense, or a prosecuting attorney acting on behalf of the victim ~~[person]~~, may file an application for a protective order under this chapter without regard to the relationship between the victim ~~[applicant]~~ and the alleged offender.

SECTION 2. Article 7A.03, Code of Criminal Procedure, is amended to read as follows:

Art. 7A.03. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER. (a) At the close of a hearing on an application for a protective order under this chapter, the court shall find whether there are reasonable grounds to believe that the applicant is~~+~~

~~[-1-]~~ the victim of a sexual assault~~+~~ and:

(1) is younger than 18 years of age; or

(2) regardless of age, is the subject of a threat that reasonably places the applicant in fear of further harm from the

1 alleged offender.

2 (b) If the court finds reasonable grounds to believe that
3 the applicant is the victim of a sexual assault and is younger than
4 18 years of age, or regardless of age, the subject of a threat that
5 reasonably places the applicant in fear of further harm from the
6 alleged offender, the court shall issue a protective order that
7 includes a statement of the required findings.

8 SECTION 3. Chapter 7A, Code of Criminal Procedure, is
9 amended by adding Article 7A.07 to read as follows:

10 Art. 7A.07. DURATION OF PROTECTIVE ORDER. (a) A protective
11 order issued under Article 7A.03 is effective for the duration of
12 the lives of the offender and victim, or for any shorter period
13 stated in the order. If a period is not stated in the order, the
14 order is effective until the second anniversary of the date the
15 order was issued.

16 (b) Section 85.025, Family Code, does not apply to the
17 protective order.

18 (c) A victim who is 17 years of age or older or a parent or
19 guardian acting on behalf of a victim who is younger than 17 years
20 of age may file at any time an application with the court to rescind
21 the protective order.

22 (d) If a person who is the subject of a protective order
23 issued under Article 7A.03 is confined or imprisoned on the date the
24 protective order is due to expire under Subsection (a), the period
25 for which the order is effective is extended, and the order expires
26 on the first anniversary of the date the person is released from
27 confinement or imprisonment.

1 SECTION 4. The change in law made by this Act applies to a
2 protective order issued on or after the effective date of this Act
3 on the basis of an offense committed before, on, or after the
4 effective date of this Act. A protective order issued before the
5 effective date of this Act is governed by the law in effect on the
6 date the protective order was issued, and the former law is
7 continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2007.