

SENATE AMENDMENTS

2nd Printing

By: Martinez

H.B. No. 1988

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the issuance of a protective order for a victim of the
3 offense of sexual assault, aggravated sexual assault, or indecency
4 with a child.

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

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

8 (a) A person who is the victim of an offense under Section
9 21.11, 22.011, or 22.021, Penal Code, a parent or guardian acting on
10 behalf of a person younger than 17 years of age who is the victim of
11 such an offense, or a prosecuting attorney acting on behalf of the
12 victim [~~person~~], may file an application for a protective order
13 under this chapter without regard to the relationship between the
14 victim [~~applicant~~] and the alleged offender.

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

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

21 [~~(1)~~] the victim of a sexual assault[+] and:

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

23 (2) regardless of age, is the subject of a threat that
24 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.

ADOPTED

MAY 23 2007

By: J. J. Amey

Leta Spaw
Secretary of the Senate

H.B. No. 1988

Substitute the following for H.B. No. 1988

By: J. J. Amey

C.S. H.B. No. 1988

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 person[~~r~~] may file an application for a protective order under this chapter without regard to the relationship between the 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

—H

8851

H

7/11/04

8861

H

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 may be effective for the duration
12 of the lives of the offender and victim as provided by Subsection
13 (b), or for any shorter period stated in the order. If a period is
14 not stated in the order, the order is effective until the second
15 anniversary of the date the order was issued.

16 (b) A protective order issued under Article 7A.03 may be
17 effective for the duration of the lives of the offender and victim
18 only if the court finds reasonable cause to believe that the victim
19 is the subject of a threat that reasonably places the victim in fear
20 of further harm from the alleged offender.

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

25 (d) If a person who is the subject of a protective order
26 issued under Article 7A.03 is confined or imprisoned on the date the
27 protective order is due to expire under Subsection (a), the period

1 for which the order is effective is extended, and the order expires
2 on the first anniversary of the date the person is released from
3 confinement or imprisonment.

4 (e) To the extent of any conflict with Section 85.025,
5 Family Code, this article prevails.

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 19, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (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.),
Committee Report 2nd House, Substituted

No fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to provide that a protective order issued on behalf of a person who is the victim of indecency with a child, sexual assault, or aggravated sexual assault may be in effect for the duration of the lives of the offender and victim if the court finds reasonable cause to believe a threat that reasonably places the victim in fear of further harm from the offender exists. If no effective period is stated in the order, it would remain in effect for two years from the date of issuance. If the person to whom the protective order applies is imprisoned on the expiration date, the order would continue in effect until one year after the person is released from confinement or imprisonment.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ES, MN, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (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.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to provide that a protective order issued on behalf of a victim of indecency with a child, sexual assault or aggravated sexual assault may be in effect for the duration of the lives of the offender and victim. If no effective period is stated in the order, it would remain in effect for two years from the date of issuance. If the person to whom the protective order applies is imprisoned on the expiration date, the order would continue in effect until one year after the person is released from confinement or imprisonment.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, ES, MN, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 6, 2007

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (Relating to the issuance of a protective order for a victim of the offense of sexual assault or aggravated sexual assault.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to provide that a protective order issued on behalf of a victim of sexual assault or aggravated sexual assault may be in effect for the duration of the lives of the offender and victim. If no effective period is stated in the order, it would remain in effect for two years from the date of issuance. If the person to whom the protective order applies is imprisoned on the expiration date, the order would continue in effect until one year after the person is released from confinement or imprisonment.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, MN, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 26, 2007

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (Relating to the issuance of a protective order for a victim of the offense of sexual assault or aggravated sexual assault.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to provide that a protective order issued on behalf of a victim of sexual assault or aggravated sexual assault may be in effect for the duration of the lives of the offender and victim. If no effective period is stated in the order, it would remain in effect for two years from the date of issuance. If the person to whom the protective order applies is imprisoned on the expiration date, the order would continue in effect for a period equal to the person's term of confinement.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, MN, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 19, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (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.),
Committee Report 2nd House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (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.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

April 9, 2007

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (Relating to the issuance of a protective order for a victim of the offense of sexual assault or aggravated sexual assault.), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes, or to juveniles who have been adjudicated for misdemeanor or felony conduct.

Source Agencies:

LBB Staff: JOB, GG

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

March 26, 2007

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1988 by Martinez, "Mando" (Relating to the issuance of a protective order for a victim of the offense of sexual assault or aggravated sexual assault.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes, or to juveniles who have been adjudicated for misdemeanor or felony conduct.

Source Agencies:

LBB Staff: JOB, GG