

BILL ANALYSIS

H.B. 649
By: Gallego
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that a victim of sexual assault, in order to be eligible for a protective order, must not only show evidence of the assault but also, if the victim is over the age of 18, that there is a threat of further harm by the alleged offender. The parties note further that, under a certain court of appeals interpretation of the threat requirement, the threat of emotional harm from unwanted contact with a perpetrator is not sufficient to entitle a victim to a protective order. Interested parties contend that the effect of this interpretation requires the victim to be harmed at least twice before being eligible for a protective order.

The parties assert that the requirement of a threat of further harm thwarts the original purpose of the sexual assault protective order statute by denying relief to some victims who fear continued emotional abuse from the alleged offender. H.B. 649 seeks to provide for protective orders for victims of sexual assault without requiring the victim to show a threat of further harm by the alleged offender.

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

H.B. 649 amends the Code of Criminal Procedure to remove, as findings required to be made by a court for the issuance of a protective order for a victim of sexual assault, the finding that the victim of a sexual assault is younger than 18 years of age or, regardless of age, is the subject of a threat that reasonably places the victim in fear of further harm from the alleged offender. The bill removes a provision authorizing a protective order for a victim of sexual assault to be effective for the duration of the lives of the offender and victim only if the court finds reasonable cause to believe that the victim is the subject of a threat that reasonably places the victim in fear of further harm from the alleged offender. The bill makes conforming changes.

EFFECTIVE DATE

September 1, 2011.