

BILL ANALYSIS

C.S.H.B. 825
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, the issuance of protective orders with regard to instances of stalking is currently limited to instances that occur in the context of family violence, unless the petitioner is able to show proof of arrest of the alleged stalker. Generally, acts that are considered family violence are confined to acts that occur between people related by blood or marriage, people who have lived together, or people who have a child in common. C.S.H.B. 825 seeks to extend the right to a protective order to people who are victims of stalking beyond the context of family violence and without requiring that the alleged stalker first be arrested for the crime.

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.H.B. 825 amends the Code of Criminal Procedure to include a stalking offense among the offenses for which a victim of the offense, a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim, or a prosecuting attorney acting on behalf of the victim is authorized to file an application for a protective order without regard to the relationship between the applicant and the alleged offender. The bill makes conforming changes to reflect this inclusion in provisions of law authorizing a court to enter a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household without further notice to the alleged offender and without a hearing and in provisions of law requiring the court to make certain findings and issue the protective order.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 825 omits a provision included in the original requiring a court, at the close of a hearing on an application for a protective order, to find whether there are reasonable grounds to believe that an applicant that is the victim of stalking is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender.