

By: Gallego

H.B. No. 649

A BILL TO BE ENTITLED

AN ACT

relating to the issuance and duration of certain protective orders for victims of sexual assault.

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

SECTION 1. 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 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 alleged offender].~~

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

SECTION 2. Article 7A.07, Code of Criminal Procedure, is amended to read as follows:

Art. 7A.07. DURATION OF PROTECTIVE ORDER. (a) A protective

1 order issued under Article 7A.03 may be effective for the duration
2 of the lives of the offender and victim [~~as provided by Subsection~~
3 ~~(b),~~] or for any shorter period stated in the order. If a period is
4 not stated in the order, the order is effective until the second
5 anniversary of the date the order was issued.

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

11 [~~(c)~~] A victim who is 17 years of age or older or a parent or
12 guardian acting on behalf of a victim who is younger than 17 years
13 of age may file at any time an application with the court to rescind
14 the protective order.

15 (c) [~~(d)~~] If a person who is the subject of a protective
16 order issued under Article 7A.03 is confined or imprisoned on the
17 date the protective order is due to expire under Subsection (a), the
18 period for which the order is effective is extended, and the order
19 expires on the first anniversary of the date the person is released
20 from confinement or imprisonment.

21 (d) [~~(e)~~] To the extent of any conflict with Section 85.025,
22 Family Code, this article prevails.

23 SECTION 3. (a) The changes in law made by this Act to
24 Article 7A.03, Code of Criminal Procedure, apply only to an
25 application for a protective order that is filed on or after the
26 effective date of this Act. An application for a protective order
27 that was filed before the effective date of this Act is governed by

1 the law in effect on the date the application was filed, and the
2 former law is continued in effect for that purpose.

3 (b) The changes in law made by this Act to Article 7A.07,
4 Code of Criminal Procedure, apply only to a protective order that is
5 issued on or after the effective date of this Act. A protective
6 order that was issued before the effective date of this Act is
7 governed by the law in effect on the date the order was issued, and
8 the former law is continued in effect for that purpose.

9 SECTION 4. This Act takes effect September 1, 2011.