

1-1 By: Gallego (Senate Sponsor - Hinojosa) H.B. No. 649
1-2 (In the Senate - Received from the House April 26, 2011;
1-3 April 29, 2011, read first time and referred to Committee on
1-4 Criminal Justice; May 12, 2011, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 12, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the issuance and duration of certain protective orders
1-9 for victims of sexual assault.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Article 7A.03, Code of Criminal Procedure, is
1-12 amended to read as follows:

1-13 Art. 7A.03. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE
1-14 ORDER. (a) At the close of a hearing on an application for a
1-15 protective order under this chapter, the court shall find whether
1-16 there are reasonable grounds to believe that the applicant is the
1-17 victim of a sexual assault ~~[and:~~

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

1-19 ~~[(2) regardless of age, is the subject of a threat that~~
1-20 ~~reasonably places the applicant in fear of further harm from the~~
1-21 ~~alleged offender].~~

1-22 (b) If the court finds reasonable grounds to believe that
1-23 the applicant is the victim of a sexual assault ~~[and is younger than~~
1-24 ~~18 years of age, or regardless of age, the subject of a threat that~~
1-25 ~~reasonably places the applicant in fear of further harm from the~~
1-26 ~~alleged offender],~~ the court shall issue a protective order that
1-27 includes a statement of the required findings.

1-28 SECTION 2. Article 7A.07, Code of Criminal Procedure, is
1-29 amended to read as follows:

1-30 Art. 7A.07. DURATION OF PROTECTIVE ORDER. (a) A protective
1-31 order issued under Article 7A.03 may be effective for the duration
1-32 of the lives of the offender and victim ~~[as provided by Subsection~~
1-33 ~~(b),]~~ or for any shorter period stated in the order. If a period is
1-34 not stated in the order, the order is effective until the second
1-35 anniversary of the date the order was issued.

1-36 (b) ~~[A protective order issued under Article 7A.03 may be~~
1-37 ~~effective for the duration of the lives of the offender and victim~~
1-38 ~~only if the court finds reasonable cause to believe that the victim~~
1-39 ~~is the subject of a threat that reasonably places the victim in fear~~
1-40 ~~of further harm from the alleged offender.~~

1-41 ~~[(c)]~~ A victim who is 17 years of age or older or a parent or
1-42 guardian acting on behalf of a victim who is younger than 17 years
1-43 of age may file at any time an application with the court to rescind
1-44 the protective order.

1-45 (c) ~~[(d)]~~ If a person who is the subject of a protective
1-46 order issued under Article 7A.03 is confined or imprisoned on the
1-47 date the protective order is due to expire under Subsection (a), the
1-48 period for which the order is effective is extended, and the order
1-49 expires on the first anniversary of the date the person is released
1-50 from confinement or imprisonment.

1-51 (d) ~~[(e)]~~ To the extent of any conflict with Section 85.025,
1-52 Family Code, this article prevails.

1-53 SECTION 3. (a) The changes in law made by this Act to
1-54 Article 7A.03, Code of Criminal Procedure, apply only to an
1-55 application for a protective order that is filed on or after the
1-56 effective date of this Act. An application for a protective order
1-57 that was filed before the effective date of this Act is governed by
1-58 the law in effect on the date the application was filed, and the
1-59 former law is continued in effect for that purpose.

1-60 (b) The changes in law made by this Act to Article 7A.07,
1-61 Code of Criminal Procedure, apply only to a protective order that is
1-62 issued on or after the effective date of this Act. A protective
1-63 order that was issued before the effective date of this Act is
1-64 governed by the law in effect on the date the order was issued, and

2-1 the former law is continued in effect for that purpose.

2-2 SECTION 4. This Act takes effect September 1, 2011.

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