

## **BILL ANALYSIS**

C.S.H.B. 1292  
By: Anchia  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note the success of recent legislative enactments regarding the issuance of a protective order for certain victims of sexual assault that removed the requirement that a victim prove not only that an assault occurred, but also that a threat of further harm was made by the perpetrator. That change was critical to ensuring protection for sexual assault victims, as the requirement to prove the threat, as interpreted by a recent appellate decision, had undermined the original intent of the law and rendered the statute impracticable. Additional enactments extended the protective order to victims of stalking. However, it has been indicated by some legal publications that the changes made by these enactments are in conflict and have led to uncertainty and an unwillingness among some attorneys to seek protective orders on behalf of victims of stalking and sexual assault. Additionally, victims of trafficking currently may obtain protective orders after criminal charges have been filed, but these victims are often in need of protection before the charges are filed or if charges are never filed. C.S.H.B. 1292 seeks to address these issues by clarifying the law and extending these protective orders to victims of trafficking and sexual abuse and expanding the venues for filing such protective orders.

### **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. 1292 amends the Code of Criminal Procedure to authorize the filing of an application for a protective order for certain victims of trafficking, sexual assault, or stalking in any court with jurisdiction over a family violence-related protective order involving the same parties named in the application or in a district court, juvenile court having the jurisdiction of a district court, statutory county court, or constitutional court in any county in which an element of the alleged offense occurred, as well as in such as court in the county in which either the applicant or the alleged offender resides.

C.S.H.B. 1292 reenacts and amends Article 7A.03, Code of Criminal Procedure, as amended by Chapters 135 (S.B. 250) and 238 (H.B. 649), Acts of the 82nd Legislature, Regular Session, 2011, to include sexual abuse and trafficking among the offenses for which a court, at the close of a hearing on an application for a protective order, is required to find whether there are reasonable grounds to believe that the applicant is the victim of such offense.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1292 may differ from the original in minor or nonsubstantive ways, the

following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

**No equivalent provision.**

SECTION 1. Article 7A.03, Code of Criminal Procedure, as amended by Chapters 135 (S.B. 250) and 238 (H.B. 649), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended.

SECTION 2. The change in law made by this Act in amending Section 7A.03, Code of Criminal Procedure, applies only to a protective order issued on or after the effective date of this Act. A protective order issued before the effective date of this Act is governed by the law in effect on the date the order is issued, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

#### HOUSE COMMITTEE SUBSTITUTE

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

(b) An application for a protective order under this chapter may be filed in:

(1) a district court, juvenile court having the jurisdiction of a district court, statutory county court, or constitutional county court in:

(A) ~~(1)~~ the county in which the applicant resides; ~~[or]~~

(B) ~~(2)~~ the county in which the alleged offender resides; or

(C) any county in which an element of the alleged offense occurred; or

(2) any court with jurisdiction over a protective order under Title 4, Family Code, involving the same parties named in the application.

SECTION 2. Same as introduced version.

SECTION 3. Substantially the same as introduced version.

SECTION 4. Same as introduced version.