

SB 482 -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/27

WHAT THE MEASURE DOES:

Provides that a sexual assault restraining order is of indefinite duration unless terminated by the court.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces the bill. Removes the requirement that a sexual assault restraining order be filed within 180 days of a sexual assault. Provides that a sexual assault restraining order shall be effective for a period of five years or, if the petitioner is under 18 years at the time of entry, until the person attains 19 years of age, whichever occurs later.

Allows the court to enter a permanent restraining order in certain circumstances. Requires a court to enter a permanent order if, at the time of the petition or renewal of the order, the respondent has been convicted of a crime involving sexual abuse against the petitioner.

BACKGROUND:

A Sexual Abuse Protective Order (SAPO) is available in certain cases where a person was subjected to unwanted sexual abuse by another person who is not a family member or intimate partner. You may ask for an Order as long as the Respondent is 18 or older. If you are under the age of 12, a parent or guardian must file for you. A guardian ad litem can also be appointed. You may file for a Sexual Abuse Protective Order on your own if you are at least 12 years of age. To be eligible for a Sexual Abuse Protective Order, Respondent must not already be prohibited from contacting you by: a restraining order from another state, Indian tribe, or territory, a stalking protective order, an Elderly Persons and Persons With Disabilities Abuse Prevention Act restraining order, a no contact order entered in a criminal case, or a restraining order entered in a juvenile court dependency case. The person who sexually abused or assaulted you must have: made you have sexual contact without your consent; or made you have sexual contact when you were not capable of consenting. The abuse must have happened in the last 180 days and the petition can establish they are in reasonable fear for your physical safety. You are not required to have called the police in order to get a Sexual Abuse Protective Order.

The Respondent has 30 days from the date of service to ask for a hearing contesting (disagreeing with) the Sexual Abuse Protective Order. If the Respondent does not ask for a hearing, the Sexual Abuse Protective Order will stay in effect for one year from the date it was issued. If the Respondent does ask for a hearing, the court will schedule it within 21 days of the request. At the hearing, a petitioner must prove that they have been sexually abused and that they reasonably fear for their physical safety. A Sexual Abuse Protective Order lasts for one year from the date the judge signs it or until a judge terminates it. It can be renewed for one year at a time if the judge finds it is objectively reasonable for a person to fear for their physical safety if the Order is not renewed. A respondent may request a modification to an order at any time after 30 days from service.

Senate Bill 482 amends the default duration a SAPO to at least five years and provides for a permanent order in limited circumstances after certain additional findings are made by a court.