

BILL ANALYSIS

Senate Research Center
78R5457 KCR-D

H.B. 297
By: Goodman (West, Royce)
Criminal Justice
5/19/2003
Engrossed

DIGEST AND PURPOSE

It is not uncommon for a person to move to a different location due to family violence or after a stalking incident has taken place, and file for a temporary emergency protective order in the new county of residence. H.B. 297 adds language which specifies that a condition imposed by a subsequent protective order under Chapter 85, Subtitle B, Title 4 (Issuance of Protective Order), Family Code, or under Title 1 (The Marriage Relationship) or Title 5 (The Parent Child Relationship and the Suit Affecting the Parent-Child Relationship) of the Family Code has precedence over a condition imposed by an order under the provisions of a magistrate's order for emergency protection.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 17.292, Code of Criminal Procedure, by amending Subsection (j) and by adding Subsections (f-1), (f-2), and (n), as follows:

(f-1) Provides that to the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 85, Subtitle B, Title 4 (Issuance of Protective Order), Family Code, or under Title 1 (The Marriage Relationship) or Title 5 (The Parent Child Relationship and the Suit Affecting the Parent-Child Relationship), Family Code, the condition imposed by the order issued under the Family Code prevails.

(f-2) Provides that to the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 83, Subtitle B, Title 4 (Requirements for Temporary Ex Parte Orders), Family Code, the condition imposed by the order issued under this article prevails unless the court issuing the order under Chapter 83, Family Code, is informed of the existence of the order issued under this article; and makes a finding in the order issued under Chapter 83, Family Code, that the court is superseding the order issued under this article.

(j) Authorizes the issuing court, after notice to each affected party and hearing, to modify all or part of an order issued under this article if the court make certain findings.

(n) Provides that on motion, notice, and hearing, or on agreement of the parties, an order for emergency protection issued under this article may be transferred to the court assuming jurisdiction over the criminal act giving rise to the issuance of the emergency order for protection. Authorizes the criminal court, on transfer, to modify all or part of an order issued under this subsection in the same manner and under the same standards as the issuing court under Subsection (j).

SECTION 2. Effective date: September 1, 2003.
Makes application of this Act prospective.