

By: Goodman

H.B. No. 297

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the duration and effect of a magistrate's order for  
3 emergency protection.

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

5 SECTION 1. Article 17.292, Code of Criminal Procedure, is  
6 amended by amending Subsection (j) and by adding Subsections (f-1),  
7 (f-2), and (n) to read as follows:

8 (f-1) To the extent that a condition imposed by an order  
9 issued under this article conflicts with a condition imposed by an  
10 order subsequently issued under Chapter 85, Subtitle B, Title 4,  
11 Family Code, or under Title 1 or Title 5, Family Code, the condition  
12 imposed by the order issued under the Family Code prevails.

13 (f-2) To the extent that a condition imposed by an order  
14 issued under this article conflicts with a condition imposed by an  
15 order subsequently issued under Chapter 83, Subtitle B, Title 4,  
16 Family Code, the condition imposed by the order issued under this  
17 article prevails unless the court issuing the order under Chapter  
18 83, Family Code:

19 (1) is informed of the existence of the order issued  
20 under this article; and

21 (2) makes a finding in the order issued under Chapter  
22 83, Family Code, that the court is superseding the order issued  
23 under this article.

24 (j) An order for emergency protection issued under this

1 article is effective on issuance, and the defendant shall be served  
2 a copy of the order in open court. An order for emergency protection  
3 issued under this article remains in effect up to the 61st day but  
4 not less than 31 days after the date of issuance. After notice to  
5 each affected party and a hearing, the issuing court may modify all  
6 or part of an order issued under this article if the court finds  
7 that:

8 (1) the order as originally issued is unworkable;

9 (2) the modification will not place the victim of the  
10 offense at greater risk than did the original order; and

11 (3) the modification will not in any way endanger a  
12 person protected under the order.

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

20 SECTION 2. This Act takes effect September 1, 2003, and  
21 applies only to an order for emergency protection issued under  
22 Article 17.292, Code of Criminal Procedure, as amended by this Act,  
23 on or after that date.