

By: Goodman

H.B. No. 297

A BILL TO BE ENTITLED

AN ACT

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

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

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

(f-1) 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, Family Code, or under Title 1 or Title 5, Family Code, the condition imposed under the Family Code prevails.

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

(1) the order as originally issued is unworkable;
(2) the modification will not place the victim of the offense at greater risk than did the original order; and

(3) the modification will not in any way endanger a

1 person protected under the order.

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

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