

1-1 By: Goodman (Senate Sponsor - West) H.B. No. 297
1-2 (In the Senate - Received from the House April 2, 2003;
1-3 April 7, 2003, read first time and referred to Committee on
1-4 Criminal Justice; May 21, 2003, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 21, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the duration and effect of a magistrate's order for
1-9 emergency protection.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Article 17.292, Code of Criminal Procedure, is
1-12 amended by amending Subsection (j) and by adding Subsections (f-1),
1-13 (f-2), and (n) to read as follows:

1-14 (f-1) To the extent that a condition imposed by an order
1-15 issued under this article conflicts with a condition imposed by an
1-16 order subsequently issued under Chapter 85, Subtitle B, Title 4,
1-17 Family Code, or under Title 1 or Title 5, Family Code, the condition
1-18 imposed by the order issued under the Family Code prevails.

1-19 (f-2) To the extent that a condition imposed by an order
1-20 issued under this article conflicts with a condition imposed by an
1-21 order subsequently issued under Chapter 83, Subtitle B, Title 4,
1-22 Family Code, the condition imposed by the order issued under this
1-23 article prevails unless the court issuing the order under Chapter
1-24 83, Family Code:

1-25 (1) is informed of the existence of the order issued
1-26 under this article; and

1-27 (2) makes a finding in the order issued under Chapter
1-28 83, Family Code, that the court is superseding the order issued
1-29 under this article.

1-30 (j) An order for emergency protection issued under this
1-31 article is effective on issuance, and the defendant shall be served
1-32 a copy of the order in open court. An order for emergency protection
1-33 issued under this article remains in effect up to the 61st day but
1-34 not less than 31 days after the date of issuance. After notice to
1-35 each affected party and a hearing, the issuing court may modify all
1-36 or part of an order issued under this article if the court finds
1-37 that:

1-38 (1) the order as originally issued is unworkable;

1-39 (2) the modification will not place the victim of the
1-40 offense at greater risk than did the original order; and

1-41 (3) the modification will not in any way endanger a
1-42 person protected under the order.

1-43 (n) On motion, notice, and hearing, or on agreement of the
1-44 parties, an order for emergency protection issued under this
1-45 article may be transferred to the court assuming jurisdiction over
1-46 the criminal act giving rise to the issuance of the emergency order
1-47 for protection. On transfer, the criminal court may modify all or
1-48 part of an order issued under this subsection in the same manner and
1-49 under the same standards as the issuing court under Subsection (j).

1-50 SECTION 2. This Act takes effect September 1, 2003, and
1-51 applies only to an order for emergency protection issued under
1-52 Article 17.292, Code of Criminal Procedure, as amended by this Act,
1-53 on or after that date.

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