

BILL ANALYSIS

C.S.H.B. 569
By: Gonzales
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, an address confidentiality program does not exist for victims of family violence in Texas. According to the Texas Council of Family Violence, 143 women died in 2005 as a result of domestic violence, some of which might have been avoided if the addresses of family violence victims had been kept confidential. Without the existence of such a program, many victims of family violence do not obtain a driver's license or register to vote, for fear of making their address open to the public. There is an increasing need for address confidentiality for victims of family violence due to the public's increased accessibility to personal information.

The purpose of an address confidentiality program would be to protect the identity of victims of family violence, sexual assault, and stalking through the establishment of a confidential mailing address. Such programs protect these victims by allowing them to conceal their whereabouts so their assailants cannot locate them.

As proposed, C.S.H.B.569 would establish an address confidentiality program administered through the Office of the Attorney General.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Office of Attorney General in SECTION 1, Article 56.83(e), Article 56.89(b), and Article 56.93 of the Code of Criminal Procedure of this bill. Additionally, rulemaking authority is expressly granted to the Secretary of State in SECTION 3, Section 13.002(e) of the Election Code.

ANALYSIS

SECTION 1. Amends Chapter 56, Code of Criminal Procedure, by adding Subchapter C, which provides for definitions in Article 56.81. Defines "applicant," "family violence," "family violence shelter center," "mail," "participant," and "program."

Article 56.82 requires the attorney general to establish an address confidentiality program to assist victims of family violence, sexual assault, or stalking in maintaining a confidential address. Further requires the attorney general to designate a substitute post office box address for a participant to use in place of the participant's true residential, business or school address. Requires the attorney general to act as an agent to receive service of process and mail, and the forwarding thereof, on behalf of a participant. Authorizes a summons, writ, notice, demand, or process to be served on the attorney general on behalf of a participant. Sets forth procedural requirements relating to the receipt of certified mail and the aforementioned summons, writ, notice, demand, or process. Requires the attorney general to make and retain a copy of the certified mail envelope.

Article 56.83 Sets forth specific requirements relating to the eligibility of a person to participate in an address confidentiality program. First the applicant must meet with a victim's assistance counselor from a state or local agency, file an application for participation, designate the attorney general as agent to receive service of process and mail, and the applicant must live or relocate to a residential address that is unknown to the person who committed or is alleged to have committed the family violence or an offense under Section 22.011, 22.021, 25.02, or 42.072 of the Penal Code. Provides specific procedural criteria for filing an application to participate in the program, as well as information that is to be contained therein. Requires a state or local agency or other entity with which an application is filed to forward the application to the attorney

general's office. Authorizes the attorney general by rule to establish additional eligibility requirements for participation in the program. Authorizes the attorney general to establish additional procedural requirements for an applicant to submit independent documentary evidence of family violence or an offense under Section 22.011(Sexual Assault), 22.021(Aggravated Sexual Assault), 22.02(Prohibited Sexual Conduct), or 42.072(Stalking), Penal Code. Specifies the acceptable forms of the aforementioned documentary evidence. Specifies that assistance or counseling by the attorney general or an employee or agent thereof to an applicant does not constitute legal advice.

Article 56.84 Requires the attorney general to certify for participation in the program an applicant who satisfies the aforementioned eligibility requirements. Specifies that the certification under this article expires three years from the date of certification.

Article 56.85 Requires a renewal applicant to satisfy the eligibility requirements as if the participant were originally applying for participation in the program.

Article 56.86 Provides specific conditions for which an applicant may be ineligible for, or a participant may be excluded from, participation in the program.

Article 56.87 Authorizes a participant to withdraw from the program by notifying the attorney general in writing.

Article 56.88 Specifies that information relating to a participant is confidential, as provided by Article 56.90. Prohibits information relating to a participant to be disclosed under Chapter 552, Government Code. Prohibits the attorney general from making a copy of any mail received by the office of the attorney general, except as provided by Article 56.82(d). Requires the attorney general to destroy all of a participant's information three years after the date that participation in the program ends.

Article 56.89 Requires a state or local agency to accept a substitute post office box address that is designated by the attorney general if it is presented by the participant as a substitute, except as provided by Subsection (b). Authorizes the attorney general by rule to permit an agency to require a participant's true residential, business, or school address, under specific circumstances.

Article 56.90 Requires the attorney general to disclose a participant's true residential, business, or school address if requested by certain state agencies and departments or required by court order. Authorizes the attorney general to disclose a participant's true residential, business, or school address if the participant consents to the disclosure and the disclosure is necessary to administer the program.

Article 56.91 Provides that the attorney general, or an agent or employee thereof, is immune from liability for any act or omission in administering the program if the person acted in good faith and in the scope of the assigned responsibilities and duties. Provides that the attorney general, or an agent or employee thereof, is subject to prosecution under Chapter 39 (Abuse of Office), Penal Code, if the person failed to act in the aforementioned manner.

Article 56.92 Requires the attorney general to make program information and application materials available online.

Article 56.93 Requires the attorney general to adopt rules to administer the program.

SECTION 2. Amends Article 56.54, Code of Criminal Procedure, by amending Subsection (c) and adding Subsection (1) to authorize the attorney general to use the compensation to victims of crime auxiliary fund to cover costs incurred in administering the address confidentiality program.

SECTION 3. Amends Section 13.002, Election Code to require participants to submit an application for early voting in person in order to be eligible. The Secretary of State is granted rule making authority to implement this section.

SECTION 4. Amends Section 18.005 (a), Election Code to allow the substitute post office box to be used in place of the residence address on registered voter lists.

SECTION 5. Amends Subchapter A, Chapter 18, Election Code, by adding Section 18.0051, to require an original or supplemental list of registered voters to include a participant's substitute address designated by the attorney general that is to be used in place of the person's true residential, business, or school address if the voter is eligible for early voting by mail and has submitted an early voting ballot.

SECTION 6. Amends Chapter 82, Election Code, by adding Section 82.007, to specify that a qualified voter is eligible for early voting by mail if the person submitted a registration application by personal delivery and the person was certified for participation in the program at the time of delivery.

SECTION 7. Amends Subchapter A, Chapter 84, Election Code, by adding Section 84.0021, to set forth the content requirements for an application for early voting submitted by a qualified voter, and specifies the confidentiality of the information contained therein. Provides an exception for requests by a law enforcement agency or court order.

SECTION 8. Amends Chapter 221, Election Code, by adding Section 221.018, to authorize the tribunal hearing an election contest to examine the information contained in an application under Section 84.0021, notwithstanding Section 84.002(b), relating to the address at which the applicant is registered to vote. Authorizes such information to be examined only for the purpose of hearing an election contest.

SECTION 9. Requires the attorney general to establish the address confidentiality program and adopt rules for the administration thereof by June 1, 2008.

SECTION 10. Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.569 modifies the original H.B.569 by removing a program assistance provision that would have required the Attorney General to identify certain entities and require them to provide access to the program including making information and application materials available and providing assistance in completing applications. The substitute replaces this provision with a requirement to make program and application materials available online.

Finally, C.S.H.B.569 adds a provision to require participants in the program to deliver applications for early voting by personal delivery. Additionally, the Secretary of State is granted rulemaking authority to implement this.