

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Zedler

H.B. No. 2329

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 7B to read as follows:

CHAPTER 7B. PROTECTIVE ORDER FOR VICTIM OF TRAFFICKING OF PERSONS

Art. 7B.01. APPLICATION FOR PROTECTIVE ORDER. (a) A person who is the victim of an offense under Section 20A.02, Penal Code, a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of such an offense, or a prosecuting attorney acting on behalf of the person may file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender.

(b) An application for a protective order under this chapter may be filed in a district court, juvenile court having the jurisdiction of a district court, statutory county court, or constitutional county court in:

(1) the county in which the applicant resides; or

(2) the county in which the alleged offender resides.

Art. 7B.02. TEMPORARY EX PARTE ORDER. If the court finds from the information contained in an application for a protective

1 order that there is a clear and present danger that the alleged  
2 offender will traffic the applicant in a manner that constitutes an  
3 offense under Section 20A.02, Penal Code, or that the victim will  
4 otherwise suffer harm described by that section, the court, without  
5 further notice to the alleged offender and without a hearing, may  
6 enter a temporary ex parte order for the protection of the applicant  
7 or any other member of the applicant's family or household.

8 Art. 7B.03. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE  
9 ORDER. (a) At the close of a hearing on an application for a  
10 protective order under this chapter, the court shall find whether  
11 there are reasonable grounds to believe that the applicant is the  
12 victim of an offense under Section 20A.02, Penal Code, and:

13 (1) is younger than 18 years of age; or  
14 (2) regardless of age, is the subject of a threat that  
15 reasonably places the applicant in fear of further harm from the  
16 alleged offender.

17 (b) If the court finds reasonable grounds to believe that  
18 the applicant is the victim of an offense under Section 20A.02,  
19 Penal Code, and is younger than 18 years of age, or regardless of  
20 age, the subject of a threat that reasonably places the applicant in  
21 fear of further harm from the alleged offender, the court shall  
22 issue a protective order that includes a statement of the required  
23 findings.

24 Art. 7B.04. APPLICATION OF OTHER LAW. To the extent  
25 applicable, except as otherwise provided by this chapter, Title 4,  
26 Family Code, applies to a protective order issued under this  
27 chapter.

1        Art. 7B.05. CONDITIONS SPECIFIED BY ORDER. (a) In a  
2 protective order issued under this chapter, the court may:

3            (1) order the alleged offender to take action as  
4 specified by the court that the court determines is necessary or  
5 appropriate to prevent or reduce the likelihood of future harm to  
6 the applicant or a member of the applicant's family or household;  
7 or

8            (2) prohibit the alleged offender from:

9            (A) communicating directly or indirectly with  
10 the applicant or any member of the applicant's family or household  
11 in a threatening or harassing manner;

12           (B) going to or near the residence, place of  
13 employment or business, or child-care facility or school of the  
14 applicant or any member of the applicant's family or household;

15           (C) engaging in conduct directed specifically  
16 toward the applicant or any member of the applicant's family or  
17 household, including following the person, that is reasonably  
18 likely to harass, annoy, alarm, abuse, torment, or embarrass the  
19 person; and

20           (D) possessing a firearm, unless the alleged  
21 offender is a peace officer, as defined by Section 1.07, Penal Code,  
22 actively engaged in employment as a sworn, full-time paid employee  
23 of a state agency or political subdivision.

24        (b) In an order under Subsection (a)(2)(B), the court shall  
25 specifically describe each prohibited location and the minimum  
26 distance from the location, if any, that the alleged offender must  
27 maintain. This subsection does not apply to an order with respect

1 to which the court has received a request to maintain  
2 confidentiality of information revealing the locations.

3 (c) In a protective order, the court may suspend a license  
4 to carry a concealed handgun issued under Section 411.177,  
5 Government Code, that is held by the alleged offender.

6 Art. 7B.06. WARNING ON PROTECTIVE ORDER. (a) Each  
7 protective order issued under this chapter, including a temporary  
8 ex parte order, must contain the following prominently displayed  
9 statements in boldfaced type, capital letters, or underlined:

10 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR  
11 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN  
12 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

13 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS  
14 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY  
15 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS  
16 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT  
17 UNLESS A COURT CHANGES THE ORDER."

18 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS  
19 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT  
20 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL  
21 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A  
22 FIREARM OR AMMUNITION."

23 (b) Each protective order issued under this chapter, except  
24 for a temporary ex parte order, must contain the following  
25 prominently displayed statement in boldfaced type, capital  
26 letters, or underlined:

27 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED

1 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY  
2 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT  
3 RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE  
4 OFFENSE IN ADDITION TO A VIOLATION OF THIS ORDER."

5 Art. 7B.07. DURATION OF PROTECTIVE ORDER. (a) A protective  
6 order issued under Article 7B.03 may be effective for the duration  
7 of the lives of the offender and victim as provided by Subsection  
8 (b), or for any shorter period stated in the order. If a period is  
9 not stated in the order, the order is effective until the second  
10 anniversary of the date the order was issued.

11 (b) A protective order issued under Article 7B.03 may be  
12 effective for the duration of the lives of the offender and victim  
13 only if the court finds reasonable cause to believe that the victim  
14 is the subject of a threat that reasonably places the victim in fear  
15 of further harm from the alleged offender.

16 (c) A victim who is 18 years of age or older or a parent or  
17 guardian acting on behalf of a victim who is younger than 18 years  
18 of age may file at any time an application with the court to rescind  
19 the protective order.

20 (d) If a person who is the subject of a protective order  
21 issued under Article 7B.03 is confined or imprisoned on the date the  
22 protective order is due to expire under Subsection (a), the period  
23 for which the order is effective is extended, and the order expires  
24 on the first anniversary of the date the person is released from  
25 confinement or imprisonment.

26 (e) To the extent of any conflict with Section 85.025,  
27 Family Code, this article prevails.

1 SECTION 2. Title 1, Code of Criminal Procedure, is amended  
2 by adding Chapter 57D to read as follows:

3 CHAPTER 57D. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF VICTIMS  
4 OF TRAFFICKING OF PERSONS

5 Art. 57D.01. DEFINITIONS. In this chapter:

6 (1) "Name" means the legal name of a person.

7 (2) "Pseudonym" means a set of initials or a  
8 fictitious name chosen by a victim to designate the victim in all  
9 public files and records concerning the offense, including police  
10 summary reports, press releases, and records of judicial  
11 proceedings.

12 (3) "Public servant" has the meaning assigned by  
13 Section 1.07(a), Penal Code.

14 (4) "Victim" means a person who is the subject of:

15 (A) an offense under Section 20A.02, Penal Code;

16 or

17 (B) an offense that is part of the same criminal  
18 episode, as defined by Section 3.01, Penal Code, as an offense under  
19 Section 20A.02, Penal Code.

20 Art. 57D.02. CONFIDENTIALITY OF FILES AND RECORDS. (a) The  
21 office of the attorney general shall develop and distribute to all  
22 law enforcement agencies of the state a pseudonym form to record the  
23 name, address, telephone number, and pseudonym of a victim.

24 (b) A victim may choose a pseudonym to be used instead of the  
25 victim's name to designate the victim in all public files and  
26 records concerning the offense, including police summary reports,  
27 press releases, and records of judicial proceedings. A victim who

1 elects to use a pseudonym as provided by this article must complete  
2 a pseudonym form developed under this article and return the form to  
3 the law enforcement agency investigating the offense.

4 (c) A victim who completes and returns a pseudonym form to  
5 the law enforcement agency investigating the offense may not be  
6 required to disclose the victim's name, address, and telephone  
7 number in connection with the investigation or prosecution of the  
8 offense.

9 (d) A completed and returned pseudonym form is confidential  
10 and may not be disclosed to any person other than a defendant in the  
11 case or the defendant's attorney, except on an order of a court of  
12 competent jurisdiction. The court finding required by Subsection  
13 (g) is not required to disclose the confidential pseudonym form to  
14 the defendant in the case or to the defendant's attorney.

15 (e) If a victim completes and returns a pseudonym form to a  
16 law enforcement agency under this article, the law enforcement  
17 agency receiving the form shall:

18 (1) remove the victim's name and substitute the  
19 pseudonym for the name on all reports, files, and records in the  
20 agency's possession;

21 (2) notify the attorney for the state of the pseudonym  
22 and that the victim has elected to be designated by the pseudonym;  
23 and

24 (3) maintain the form in a manner that protects the  
25 confidentiality of the information contained on the form.

26 (f) An attorney for the state who receives notice that a  
27 victim has elected to be designated by a pseudonym shall ensure that

1 the victim is designated by the pseudonym in all legal proceedings  
2 concerning the offense.

3 (g) A court of competent jurisdiction may order the  
4 disclosure of a victim's name, address, and telephone number only  
5 if the court finds that the information is essential in the trial of  
6 the defendant for the offense or the identity of the victim is in  
7 issue.

8 (h) Except as required or permitted by other law or by court  
9 order, a public servant or other person who has access to or obtains  
10 the name, address, telephone number, or other identifying  
11 information of a victim younger than 18 years of age may not release  
12 or disclose the identifying information to any person who is not  
13 assisting in the investigation, prosecution, or defense of the  
14 case. This subsection does not apply to the release or disclosure  
15 of a victim's identifying information by:

16 (1) the victim; or

17 (2) the victim's parent, conservator, or guardian,  
18 unless the victim's parent, conservator, or guardian allegedly  
19 committed the offense described by Article 57D.01(4).

20 Art. 57D.03. OFFENSE. (a) A public servant with access to  
21 the name, address, or telephone number of a victim 18 years of age  
22 or older who has chosen a pseudonym under this chapter commits an  
23 offense if the public servant knowingly discloses the name,  
24 address, or telephone number of the victim to any person who is not  
25 assisting in the investigation or prosecution of the offense or to  
26 any person other than the defendant, the defendant's attorney, or  
27 the person specified in the order of a court of competent



1 jurisdiction.

2 (b) Unless the disclosure is required or permitted by other  
3 law, a public servant or other person commits an offense if the  
4 person:

5 (1) has access to or obtains the name, address, or  
6 telephone number of a victim younger than 18 years of age; and

7 (2) knowingly discloses the name, address, or  
8 telephone number of the victim to any person who is not assisting in  
9 the investigation or prosecution of the offense or to any person  
10 other than the defendant, the defendant's attorney, or a person  
11 specified in an order of a court of competent jurisdiction.

12 (c) It is an affirmative defense to prosecution under  
13 Subsection (b) that the actor is:

14 (1) the victim; or

15 (2) the victim's parent, conservator, or guardian,  
16 unless the victim's parent, conservator, or guardian allegedly  
17 committed the offense described by Article 57D.01(4).

18 (d) An offense under this article is a Class C misdemeanor.

19 SECTION 3. Not later than October 1, 2011, the office of the  
20 attorney general shall develop and distribute to all law  
21 enforcement agencies of the state a pseudonym form to record the  
22 name, address, telephone number, and pseudonym of a victim as  
23 required by Article 57D.02, Code of Criminal Procedure, as added by  
24 this Act.

25 SECTION 4. This Act takes effect September 1, 2011.

# ADOPTED

MAY 24 2011

FLOOR AMENDMENT NO. 1

*Atay Spaw*  
Secretary of the Senate

BY: \_\_\_\_\_

*Patricia Van de Putte*

1 Amend H.B. No. 2329 (senate committee report) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Section 25.026, Tax Code, is amended to read  
5 as follows:

6 Sec. 25.026. CONFIDENTIALITY OF CERTAIN [~~VIOLENCE~~] SHELTER  
7 CENTER AND SEXUAL ASSAULT PROGRAM ADDRESS INFORMATION. (a) In  
8 this section:

9 (1) "Family violence shelter center" has the meaning  
10 assigned by Section 51.002, Human Resources Code.

11 (2) "Sexual assault program" has the meaning assigned  
12 by Section 420.003, Government Code.

13 (3) "Victims of trafficking shelter center" means a  
14 program that:

15 (A) is operated by a public or private nonprofit  
16 organization; and

17 (B) provides comprehensive residential and  
18 nonresidential services to victims of trafficking of persons under  
19 Section 20A.02, Penal Code.

20 (b) Information in appraisal records under Section 25.02 is  
21 confidential and is available only for the official use of the  
22 appraisal district, this state, the comptroller, and taxing units  
23 and political subdivisions of this state if the information  
24 identifies the address of a family violence shelter center, ~~or~~ a  
25 sexual assault program, or a victims of trafficking shelter center.

# ADOPTED

MAY 24 2011

*Antony Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Craig Estes*

1 Amend H.B. No. 2329 (Senate Committee Printing) as follows:

2 (1) In SECTION 1 of the bill, in added Article 7B.01(a),  
3 Code of Criminal Procedure (page 1, line 22), between "the  
4 applicant and the" and "alleged", insert "offender or"

5 (2) In SECTION 1 of the bill, in added Article  
6 7B.01(b)(2), Code of Criminal Procedure (page 1, line 29),  
7 between "in which the" and "alleged", insert "offender or".

8 (3) In SECTION 1 of the bill, in added Article 7B.02, Code  
9 of Criminal Procedure (page 1, 36) between "to the" and  
10 "alleged", insert "offender or".

11 (4) In SECTION 1 of the bill, in the heading to proposed  
12 Article 7B.03, Code of Criminal Procedure (page 1, line 39)  
13 between "ISSUANCE OF" and "PROTECTIVE", insert "TEMPORARY  
14 PRETRIAL".

15 (5) In SECTION 1 of the bill, in proposed Article 7B.03(a),  
16 Code of Criminal Procedure (page 1, line 43), between "offense"  
17 and "under", insert "for which the subject of the protective  
18 order has been charged".

19 (6) In SECTION 1 of the bill, in proposed Article 7B.03(b),  
20 Code of Criminal Procedure (page 1, line 49), between "offense"  
21 and "under", insert "for which the subject of the protective  
22 order has been charged".

23 (7) In SECTION 1 of the bill, in proposed Article 7B.03(b),  
24 Code of Criminal Procedure (page 1, line 53), between "issue a"  
25 and "protective", insert "temporary".

26 (8) In SECTION 1 of the bill, in proposed Article 7B.03(b),  
27 Code of Criminal Procedure (page 1, line 54), before the  
28 underlined period, insert ", to be effective until the date the  
29 alleged offender is convicted or acquitted, or until the date on

1 which the case involving the offense under Section 20A.02, Penal  
2 Code, is finally disposed.

3 (9) In SECTION 1 of the bill, in proposed Chapter 7B, Code  
4 of Criminal Procedure (page 1, between lines 54 and 55), insert  
5 the following proposed article of the chapter, and renumber  
6 subsequent articles of the chapter accordingly:

7 Art. 7B.04. REQUIRED FINDINGS; ISSUANCE OF POST-TRIAL  
8 PROTECTIVE ORDER. (a) At the close of a hearing on an  
9 application for a protective order under this chapter, the court  
10 shall find whether there are reasonable grounds to believe that  
11 the applicant is the victim of an offense for which the subject  
12 of the protective order has been convicted under Section 20A.02,  
13 Penal Code, and:

14 (1) is younger than 18 years of age; or

15 (2) regardless of age, is the subject of a threat that  
16 reasonably places the applicant in fear of further harm from the  
17 alleged offender.

18 (b) If the court finds reasonable grounds to believe  
19 that the applicant is the victim of an offense for which the  
20 subject of the protective order has been convicted under Section  
21 20A.02, Penal Code, and is younger than 18 years of age, or  
22 regardless of age, the subject of a threat that reasonably  
23 places the applicant in fear of further harm from the offender,  
24 the court shall issue a protective order that includes a  
25 statement of the required findings.

26 (10) In SECTION 1 of the bill, in added Article  
27 7B.05(a)(1), Code of Criminal Procedure (page 1, line 61)  
28 between "order the" and "alleged", insert "offender or".

29 (11) In SECTION 1 of the bill, in added Article  
30 7B.05(a)(2), Code of Criminal Procedure (page 2, line 2) between  
31 "prohibit the" and "alleged", insert "offender or".

1 (12) In SECTION 1 of the bill, in added Article 7B.05(b),  
2 Code of Criminal Procedure (page 2, line 20) between "that the"  
3 and "alleged", insert "offender or".

4 (13) In SECTION 1 of the bill, in added Article 7B.05(c),  
5 Code of Criminal Procedure (page 2, line 26) between "by the"  
6 and "alleged", insert "offender or".

7 (14) In SECTION 1 of the bill, in added Article 7B.06(b),  
8 Code of Criminal Procedure (page 2, line 39) strike "IS" and  
9 substitute "MAY BE".

10 (15) In SECTION 1 of the bill, in the heading to proposed  
11 Article 7B.07, Code of Criminal Procedure (page 2, line 53),  
12 between "OF" and "PROTECTIVE", insert "POST-TRIAL".

13 (16) In SECTION 1 of the bill, strike proposed Article  
14 7B.07(d), Code of Criminal Procedure (page 2, line 68 through  
15 page 3, line 4), and reletter subsequent subsections of the  
16 article accordingly.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 25, 2011**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2329** by Zedler (Relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure relating to protective orders for victims of trafficking of persons, including confidentiality provisions. The bill would require the Office of the Attorney General to develop and distribute a pseudonym form to law enforcement agencies of the state for use in such cases, which the OAG reports can be handled within existing resources. The bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** JOB, ESi, JT, TB, KKR

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 19, 2011**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2329** by Zedler (Relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure relating to protective orders for victims of trafficking of persons, including confidentiality provisions. The bill would require the Office of the Attorney General to develop and distribute a pseudonym form to law enforcement agencies of the state for use in such cases, which the OAG reports can be handled within existing resources. The bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** JOB, ESi, JT, TB, KKR

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 9, 2011**

**TO:** Honorable Jim Jackson, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2329** by Zedler (Relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure relating to protective orders for victims of trafficking of persons, including confidentiality provisions. The bill would require the Office of the Attorney General to develop and distribute a pseudonym form to law enforcement agencies of the state for use in such cases, which the OAG reports can be handled within existing resources. The bill would take effect September 1, 2011.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General

**LBB Staff:** JOB, JT, TB, KKR