

By: Lucio III

H.B. No. 1438

Substitute the following for H.B. No. 1438:

By: Herrero

C.S.H.B. No. 1438

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the duration of a magistrate's order for emergency
3 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 adding Subsections (j-1),
7 (j-2), and (j-3) to read as follows:

8 (j) An order for emergency protection issued under this
9 article is effective on issuance, and the defendant shall be served
10 a copy of the order in open court.

11 (j-1) An order for emergency protection issued under
12 Subsection (a) or (b)(1) of this article remains in effect up to the
13 61st day but not less than 31 days after the date of issuance. An
14 order for emergency protection issued under Subsection (b)(2) of
15 this article remains in effect up to the 91st day but not less than
16 61 days after the date of issuance.

17 (j-2) If a person who is the subject of an order for
18 emergency protection is confined or imprisoned on the date the
19 order is due to expire under Subsection (j-1), the period for which
20 the order is effective is extended, and the order expires on the
21 31st day after the date the person is released from confinement or
22 imprisonment.

23 (j-3) After notice to each affected party and a hearing, the
24 issuing court may modify all or part of an order issued under this

1 article if the court finds that:

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

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

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

7 SECTION 2. The change in law made by this Act to Article
8 17.292, Code of Criminal Procedure, applies only to a magistrate's
9 order for emergency protection that is issued on or after the
10 effective date of this Act. A magistrate's order for emergency
11 protection that was issued before the effective date of this Act is
12 governed by the law in effect on the date the order was issued, and
13 the former law is continued in effect for that purpose.

14 SECTION 3. This Act takes effect September 1, 2013.