BILL ANALYSIS

BACKGROUND AND PURPOSE

A protective order provides a measure of protection to a victim of family violence, sexual assault, or stalking by placing restrictions on the contact the accused may have with the victim. An emergency protective order may be issued when the accused is arrested, while a more permanent protective order may be issued after a civil hearing. Advocates note that in some jurisdictions, protective orders are not entered into the statewide law enforcement information system in a timely, effective manner, partly because state law does not expressly permit modern methods of transmission such as secure e-mail or require certain useful information to be entered, thereby leaving peace officers in the field with no way of knowing about or enforcing many protective orders. S.B. 737 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 737 amends the Code of Criminal Procedure to include trafficking of persons and continuous trafficking of persons among the offenses for which a magistrate is authorized to issue an order for emergency protection at a defendant's appearance before the magistrate after arrest for the offense. The bill expands the actions a magistrate is authorized to prohibit the arrested party from taking in an order for emergency protection to include an act in furtherance a trafficking of persons offense. The bill imposes a deadline of not later than the next business day after the date a magistrate issues an order for emergency protection in a case involving family violence or an offense of sexual assault, aggravated sexual assault, or stalking on the requirement that the magistrate send a copy of the order to the chief of police of the municipality or the sheriff of the county in which the individual protected by the order resides, as applicable. The bill imposes a deadline of not later than the next business day after the date the order is issued on the requirement that the clerk of the court send a copy of the order to the victim and specifies that the clerk must send the copy to the victim at the victim's last known address. The bill authorizes a magistrate or clerk of the court to delay sending a copy of the order to the chief of police, sheriff, or victim, as applicable, only if the magistrate or clerk lacks information necessary to ensure service and enforcement. The bill authorizes the copy of the order and any related information to be sent to the applicable recipient electronically or in another manner that can be accessed by the recipient.

S.B. 737 removes a provision requiring each municipal police department and sheriff to establish a procedure within the department or office to provide adequate information or access to

information for peace officers of the names of persons protected by an order for emergency protection issued in a case involving family violence or an offense of sexual assault, aggravated sexual assault, or stalking and of persons to whom the order is directed. The bill instead requires the law enforcement agency with jurisdiction over the municipality or county in which the victim resides to enter the information collected by the bureau of identification and records within the Department of Public Safety (DPS) under Government Code provisions governing the bureau's collection of information on the number and nature of protective orders and orders for emergency protection and persons affected by active orders into the statewide law enforcement information system maintained by DPS not later than the third business day after the date the law enforcement agency receives a copy of the order. The bill authorizes a law enforcement agency to delay entering such information only if the agency lacks information necessary to ensure service and enforcement.

S.B. 737 amends the Family Code to impose a deadline of not later than the next business day after the date a court issues an original or modified order for protection in cases involving family violence on the requirement that the clerk of the court send a copy of the order to specified persons and agencies. The bill authorizes a clerk of the court to transmit the order and any related information electronically or in another manner that can be accessed by the recipient and to delay sending a copy of the order only if the clerk lacks information necessary to ensure service and enforcement. The bill changes from the 10th day to the third business day after the date an original or modified protective order is received the deadline by which a law enforcement agency is required to enter the information collected by the DPS bureau of identification and records regarding protective orders, orders of emergency protection, and persons affected by active orders into the statewide law enforcement information system maintained by DPS.

S.B. 737 amends the Government Code to expand the scope of the information required to be collected by the DPS bureau of identification and records to include information concerning the number and nature of magistrate's orders of emergency protection and changes the nature of the other pertinent information required to be collected by the bureau from pertinent information about all persons on active protective orders to pertinent information about all persons subject to active orders. The bill includes a magistrate's order of emergency protection among the orders that provide an exception to this collection requirement with respect to certain address, employment, child-care facility, or school-related information about a person or child protected by the order. The bill expands the information required to be included in the law enforcement information system relating to an active order to include any minimum distance the person subject to a protective order or an order of emergency protection is required to maintain from the protected places or persons.

EFFECTIVE DATE

September 1, 2015.