BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law authorizes judges to issue emergency orders to protect the victims of family violence. The issuing court reports these orders to law enforcement, enabling them to keep victims safe from further violence. However, under current law and practice, there are often delays in the execution of the order. Victims are not notified that the order has been issued, and law enforcement officers may go to the scene of a family violence investigation unaware of an existing order for emergency protection. In some counties, it can take up to a month for the order to be reported. Delays in notification make enforcement more difficult and pose serious risks for victims. In addition, one form of protective order, a magistrate's order for emergency protection, is not currently reported to the Texas Crime Information Center (TCIC), which collects offender information for the use of law enforcement across the state and across the country.

S.B. 737 amends Article 17.292, Code of Criminal Procedure, to require courts to send protective orders to law enforcement by the end of the next business day and to permit transmission in electronic form. The bill also requires orders to be sent to victims at the same time. In addition, S.B. 737 shortens the timeline that law enforcement has to enter the orders from the tenth day after receiving the order to the third day. Lastly, S.B. 737 amends Section 411.042, Government Code, to require the reporting of magistrates' orders for emergency protection to TCIC. These measures will help victims who depend on protective orders for their safety. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 737 amends current law relating to certain protective orders and magistrate's orders for emergency protection.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 17.292, Code of Criminal Procedure, by amending Subsections (a), (c), (g), (h), and (k) and adding Subsections (h-1), (i-1), and (k-1), as follows:

> (a) Adds reference to Sections 20A.02 (Trafficking of Persons) and 20A.03 (Continuous Trafficking of Persons), Penal Code, to a list of offenses involving family violence and certain other offenses and makes no further change to this subdivision.

> (c) Authorizes the magistrate in the order for emergency protection to prohibit the arrested party from:

>> (1) committing:

>>> (A) Makes no change to this paragraph; or

>>> (B) an act in furtherance of an offense under Section 20A.02 or 42.072 (Stalking), Penal Code;

(2)-(4) Makes no change to these subdivisions.

(g) Requires that an order for emergency protection issued under this article contain certain statements printed in bold-face type or in capital letters, and sets forth the statements and language to be used.

(h) Requires the magistrate, as soon as possible but not later than the next business day after the date the magistrate issues an order for emergency protection under this article, to send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the person resides, if the person does not reside in a municipality. Requires the clerk of the court to send a copy of the order to the victim at the victim's last known address as soon as possible but not later than the next business day after the date the order is issued.

Makes nonsubstantive changes.

(h-1) Authorizes a magistrate or clerk of the court to delay sending a copy of the order under Subsection (h) only if the magistrate or clerk lacks information necessary to ensure service and enforcement.

(i-1) Authorizes the copy of the order and any relating information to be sent under Subsection (h) or (i) (requiring the magistrate, if an order for emergency protection issued under this article prohibits a person from going to or near a child care facility or school, to send a copy of the order to the child care facility or school) electronically or in another manner that can be accessed by the recipient.

(k) Requires the law enforcement agency to enter the information required under Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety of the State of Texas (DPS) to ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article, not later than third business day after the date of receipt of the copy of the order by the applicable law enforcement agency with jurisdiction over the municipality or county in which the victim resides.

Deletes existing text 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 under this article and of persons to whom the order is directed to ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article. Deletes existing text authorizing the police department or sheriff to enter an order for emergency protection issued under this article in the department's or officer's record of outstanding warrants as notice that the order has been issued and is in effect.

(k-1) Authorizes a law enforcement agency to delay entering the information required under Subsection (k) only if the agency lacks information necessary to ensure service and enforcement.

SECTION 2. Amends Article 17.292(m), Code of Criminal Procedure, by adding Subdivision (3) to define "business day."

SECTION 3. Amends Section 85.042, Family Code, by amending Subsections (a) and (d) and adding Subsections (f), (g), and (h) as follows:

(a) Requires the clerk of the court, not later than the next business day after the date the court issues an original or modified protective order, to send a copy of the order, along with the information provided by the applicant or the applicant's attorney that is required under Section 411.042(b)(6), Government Code, to certain enumerated parties.

Makes nonsubstantive changes.

(d) Requires the applicant or the applicant's attorney to provide to the clerk of the court the name and address of each law enforcement agency, child-care facility, school, and other individual or entity to which the clerk is required to send, rather than mail, a copy of the order under this section.

(f) Authorizes the clerk of the court to transmit the order and any related information electronically or in another manner that can be accessed by the recipient.

(g) Authorizes a clerk of the court to delay sending a copy of the order under Subsection (a) only if the clerk lacks information necessary to ensure service and enforcement.

(h) Defines "business day" in this section.

SECTION 4. Amends Section 86.0011, Family Code, as follows:

Sec. 86.0011. DUTY TO ENTER INFORMATION INTO STATEWIDE LAW ENFORCEMENT INFORMATION SYSTEM. (a) Creates this subsection from existing text. Requires a law enforcement agency to immediately, but not later than the third business day, rather than the 10th day, after the date the order is received, enter the information required by Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by DPS on receipt of an original or modified protective order from the clerk of the issuing court.

(b) Defines "business day" for purposes of this section.

SECTION 5. Amends Section 411.042(b), Government Code, as follows:

(b) Requires the bureau of identification and records to collect information concerning the number and nature of protective order and magistrate's orders of emergency protection and all other pertinent information about all persons subject to active orders, rather than all persons on active protective orders, including pertinent information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, or stalking case. Requires that information in the law enforcement information system relating to an active order, rather than active protective order, include:

(A)-(C) Makes no change to these paragraphs;

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007 (Confidentiality of Certain Information), Family Code, or Article 17.292(e), Code of Criminal Procedure;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code, or Article 17.292(e), Code of Criminal Procedure;

(F) Makes no change to this paragraph;

(G) Makes a nonsubstantive change;

(H) any minimum distance the person subject to the order is required to maintain from the protected places or persons; and

(I) the date the order expires;

Makes no further change to this subsection.

SECTION 6. Provides that the changes in law made by this Act apply to a protective order or magistrate's order of emergency protection issued on or after the effective date of this Act, regardless of whether the conduct on which the order is based occurred before, on, or after that date.

SECTION 7. Effective date: September 1, 2015.