

By: Moody

H.B. No. 1660

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain protective orders and magistrate's orders for  
3 emergency 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 Subsections (h) and (k) and adding Subsections  
7 (h-1) and (k-1) to read as follows:

8 (h) As soon as possible but not later than the next business  
9 day after the date the [The] magistrate issues [issuing] an order  
10 for emergency protection under this article, the magistrate shall  
11 send a copy of the order to the chief of police in the municipality  
12 where the member of the family or household or individual protected  
13 by the order resides, if the person resides in a municipality, or to  
14 the sheriff of the county where the person resides, if the person  
15 does not reside in a municipality. The magistrate may send the copy  
16 of the order and any related information electronically or in any  
17 other manner that can be accessed by the chief of police or sheriff.

18 If the victim of the offense is not present when the order is  
19 issued, the magistrate issuing the order shall order an appropriate  
20 peace officer to make a good faith effort to notify, within 24  
21 hours, the victim that the order has been issued by calling the  
22 victim's residence and place of employment. The clerk of the court  
23 shall send a copy of the order to the victim at the victim's last  
24 known address as soon as possible but not later than the next

1 business day after the date the order is issued.

2 (h-1) A magistrate or clerk of the court may delay sending  
3 the order under Subsection (h) only if the magistrate or clerk lacks  
4 information necessary to ensure service and enforcement.

5 (k) To ensure that an officer responding to a call is aware  
6 of the existence and terms of an order for emergency protection  
7 issued under this article, not later than the next business day  
8 after the date the law enforcement agency with jurisdiction over  
9 the location of the victim's current or last known address receives  
10 a copy of the order, the law enforcement agency shall enter the  
11 information required under Section 411.042(b)(6), Government Code,  
12 into the statewide law enforcement information system maintained by  
13 the Department of Public Safety [~~each municipal police department~~  
14 ~~and sheriff shall establish a procedure within the department or~~  
15 ~~office to provide adequate information or access to information for~~  
16 ~~peace officers of the names of persons protected by an order for~~  
17 ~~emergency protection issued under this article and of persons to~~  
18 ~~whom the order is directed. The police department or sheriff may~~  
19 ~~enter an order for emergency protection issued under this article~~  
20 ~~in the department's or office's record of outstanding warrants as~~  
21 ~~notice that the order has been issued and is in effect].~~

22 (k-1) A law enforcement agency may delay entering the  
23 information required under Subsection (k) only if the agency lacks  
24 information necessary to ensure service and enforcement.

25 SECTION 2. Article 17.292(m), Code of Criminal Procedure,  
26 is amended by adding Subdivision (3) to read as follows:

27 (3) "Business day" means a day other than a Saturday,

1 Sunday, or state or national holiday.

2 SECTION 3. Section 85.042, Family Code, is amended by  
3 amending Subsections (a) and (d) and adding Subsections (f) and (g)  
4 to read as follows:

5 (a) Not later than the next business day after the date [~~The~~  
6 ~~clerk of~~] the court issues [~~issuing~~] an original or modified  
7 protective order under this subtitle, the clerk of the court shall  
8 send a copy of the order, along with the information provided by the  
9 applicant or the applicant's attorney that is required under  
10 Section 411.042(b)(6), Government Code, to:

11 (1) the chief of police of the municipality in which  
12 the person protected by the order resides, if the person resides in  
13 a municipality;

14 (2) the appropriate constable and the sheriff of the  
15 county in which the person resides, if the person does not reside in  
16 a municipality; and

17 (3) the Title IV-D agency, if the application for the  
18 protective order indicates that the applicant is receiving services  
19 from the Title IV-D agency.

20 (d) The applicant or the applicant's attorney shall provide  
21 to the clerk of the court:

22 (1) the name and address of each law enforcement  
23 agency, child-care facility, school, and other individual or entity  
24 to which the clerk is required to send [~~mail~~] a copy of the order  
25 under this section; and

26 (2) any other information required under Section  
27 411.042(b)(6), Government Code.

1        (f) The clerk of the court may transmit the order and any  
2 related information electronically or in another manner that can be  
3 accessed by the recipient.

4        (g) In this section, "business day" means a day other than a  
5 Saturday, Sunday, or state or national holiday.

6        SECTION 4. Section 86.0011, Family Code, is amended to read  
7 as follows:

8        Sec. 86.0011. DUTY TO ENTER INFORMATION INTO STATEWIDE LAW  
9 ENFORCEMENT INFORMATION SYSTEM. On receipt of an original or  
10 modified protective order from the clerk of the issuing court, a law  
11 enforcement agency shall immediately, but not later than the third  
12 [~~10th~~] day after the date the order is received, enter the  
13 information required by Section 411.042(b)(6), Government Code,  
14 into the statewide law enforcement information system maintained by  
15 the Department of Public Safety.

16        SECTION 5. Section 411.042(b), Government Code, is amended  
17 to read as follows:

18        (b) The bureau of identification and records shall:

19                (1) procure and file for record photographs, pictures,  
20 descriptions, fingerprints, measurements, and other pertinent  
21 information of all persons arrested for or charged with a criminal  
22 offense or convicted of a criminal offense, regardless of whether  
23 the conviction is probated;

24                (2) collect information concerning the number and  
25 nature of offenses reported or known to have been committed in the  
26 state and the legal steps taken in connection with the offenses, and  
27 other information useful in the study of crime and the

1 administration of justice, including information that enables the  
2 bureau to create a statistical breakdown of:

3 (A) offenses in which family violence was  
4 involved;

5 (B) offenses under Sections 22.011 and 22.021,  
6 Penal Code; and

7 (C) offenses under Sections 20A.02 and 43.05,  
8 Penal Code;

9 (3) make ballistic tests of bullets and firearms and  
10 chemical analyses of bloodstains, cloth, materials, and other  
11 substances for law enforcement officers of the state;

12 (4) cooperate with identification and crime records  
13 bureaus in other states and the United States Department of  
14 Justice;

15 (5) maintain a list of all previous background checks  
16 for applicants for any position regulated under Chapter 1702,  
17 Occupations Code, who have undergone a criminal history background  
18 check under Section 411.119, if the check indicates a Class B  
19 misdemeanor or equivalent offense or a greater offense;

20 (6) collect information concerning the number and  
21 nature of protective orders and magistrate's orders of emergency  
22 protection and all other pertinent information about all persons on  
23 active [~~protective~~] orders, including pertinent information about  
24 persons subject to conditions of bond imposed for the protection of  
25 the victim in any family violence, sexual assault or abuse, or  
26 stalking case. Information in the law enforcement information  
27 system relating to an active [~~protective~~] order shall include:

1 (A) the name, sex, race, date of birth, personal  
2 descriptors, address, and county of residence of the person to whom  
3 the order is directed;

4 (B) any known identifying number of the person to  
5 whom the order is directed, including the person's social security  
6 number or driver's license number;

7 (C) the name and county of residence of the  
8 person protected by the order;

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

13 (E) the child-care facility or school where a  
14 child protected by the order normally resides or which the child  
15 normally attends, unless that information is excluded from the  
16 order under Section 85.007, Family Code;

17 (F) the relationship or former relationship  
18 between the person who is protected by the order and the person to  
19 whom the order is directed;

20 (G) the conditions of bond imposed on the person  
21 to whom the order is directed, if any, for the protection of a  
22 victim in any family violence, sexual assault or abuse, or stalking  
23 case; ~~and~~

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

27 (I) the date the order expires;

1           (7) grant access to criminal history record  
2 information in the manner authorized under Subchapter F;

3           (8) collect and disseminate information regarding  
4 offenders with mental impairments in compliance with Chapter 614,  
5 Health and Safety Code; and

6           (9) record data and maintain a state database for a  
7 computerized criminal history record system and computerized  
8 juvenile justice information system that serves:

9           (A) as the record creation point for criminal  
10 history record information and juvenile justice information  
11 maintained by the state; and

12           (B) as the control terminal for the entry of  
13 records, in accordance with federal law and regulations, federal  
14 executive orders, and federal policy, into the federal database  
15 maintained by the Federal Bureau of Investigation.

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

21           SECTION 7. This Act takes effect September 1, 2015.