By: Rodriguez   S.B. No. 737

A BILL TO BE ENTITLED

1   AN ACT

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

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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.

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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:

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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, or Article 17.292(e), Code

17 of Criminal Procedure;

18   (F)   the relationship or former relationship

19 between the person who is protected by the order and the person to

20 whom the order is directed;

21   (G)   the conditions of bond imposed on the person

22 to whom the order is directed, if any, for the protection of a

23 victim in any family violence, sexual assault or abuse, or stalking

24 case; [and]

25   (H)   the minimum distance the person subject to

26 the order is required to maintain from the protected places or

27 persons; and

1   (I) the date the order expires;

2   (7) grant   access   to   criminal   history   record

3   information in the manner authorized under Subchapter F;

4   (8) collect   and   disseminate   information   regarding

5   offenders with mental impairments in compliance with Chapter 614,

6   Health and Safety Code; and

7   (9) record data and maintain a state database for a

8   computerized   criminal   history   record   system   and   computerized

9   juvenile justice information system that serves:

10   (A) as the record creation point for criminal

11   history   record   information   and   juvenile   justice   information

12   maintained by the state; and

13   (B) as the control terminal for the entry of

14   records, in accordance with federal law and regulations, federal

15   executive orders, and federal policy, into the federal database

16   maintained by the Federal Bureau of Investigation.

17   SECTION 6. The changes in law made by this Act apply to a

18   protective order or magistrate's order of emergency protection

19   issued on or after the effective date of this Act, regardless of

20   whether the conduct on which the order is based occurred before, on,

21   or after that date.

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