By:  Powell S.B. No. 2390

(In the Senate - Filed March 8, 2019; March 21, 2019, read first time and referred to Committee on State Affairs; April 8, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Huffman         X

Hughes          X

Birdwell        X

Creighton       X

Fallon          X

Hall            X

Lucio           X

Nelson          X

Zaffirini       X

COMMITTEE SUBSTITUTE FOR S.B. No. 2390 By:  Zaffirini

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of certain personal information of a person protected by a magistrate's order for emergency protection.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.294 to read as follows:

Art. 17.294.  CONFIDENTIALITY OF CERTAIN INFORMATION IN ORDER FOR EMERGENCY PROTECTION. On request by a person protected by an order for emergency protection issued under Article 17.292, or if determined necessary by the magistrate, the court issuing the order may protect the person's mailing address by rendering an order:

(1)  requiring the person protected under the order to:

(A)  disclose the person's mailing address to the court;

(B)  designate another person to receive on behalf of the person any notice or documents filed with the court related to the order; and

(C)  disclose the designated person's mailing address to the court;

(2)  requiring the court clerk to:

(A)  strike the mailing address of the person protected by the order from the public records of the court, if applicable; and

(B)  maintain a confidential record of the mailing address for use only by:

(i)  the court; or

(ii)  a law enforcement agency for purposes of entering the information required by Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety; and

(3)  prohibiting the release of the information to the defendant.

SECTION 2.  Section 411.042(b), Government Code, is amended to read as follows:

(b)  The bureau of identification and records shall:

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

(2)  collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of:

(A)  offenses in which family violence was involved;

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

(C)  offenses under Sections 20A.02, 43.02(a), 43.02(b), 43.03, and 43.05, Penal Code;

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

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

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

(6)  collect information concerning the number and nature of protective orders and magistrate's orders of emergency protection and all other pertinent information about all persons subject to active 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, stalking, or trafficking case. Information in the law enforcement information system relating to an active order shall include:

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

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

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

(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 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 Article 17.292(e), Code of Criminal Procedure~~];

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

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

(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;

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

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

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

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

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

SECTION 3.  The changes in law made by this Act apply only to a magistrate's order for emergency protection issued on or after the effective date of this Act. An order issued before the effective date of this Act is governed by the law in effect on the date the order was issued, and the former law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2019.

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