

## **BILL ANALYSIS**

Senate Research Center  
88R21860 MZM-D

C.S.S.B. 839  
By: West  
Criminal Justice  
4/5/2023  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 839 is modeled after the witness protection program that was adopted by the State of Colorado, enacted in 2019. Under S.B. 839, a district or county attorney's office (prosecuting attorney) may request relocation or other protective services for a witness or the family of the witness or other persons closely associated with a first degree or capital felony case.

The program will be operated by the Texas Rangers Division of the Department of Public Safety of the State of Texas (DPS). DPS will be responsible for creating rules regarding the type of cases that will fall under the witness protection program and the types of protections that will be offered.

DPS is also responsible for a statewide training course that will be mandated for prosecuting attorneys who request witness protection services.

S.B. 839 has been agreed to by the Texas District and County Attorneys Association and the Texas Criminal Defense Lawyers Association.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 839 amends current law relating to the creation of a witness protection unit within the Department of Public Safety.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to Department of Public Safety of the State of Texas in SECTION 1 (Section 411.0283, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 411, Government Code, by adding Subchapter B-2, as follows:

#### **SUBCHAPTER B-2. WITNESS PROTECTION UNIT**

Sec. 411.0281. Defines "prosecuting attorney," "unit," and "witness protection unit."

Sec. 411.0282. ESTABLISHMENT OF UNIT. (a) Requires the Department of Public Safety of the State of Texas (DPS) to establish and support a witness protection unit (unit).

(b) Requires the director of DPS (director) to direct the administration and oversight of the unit, including the unit's organization within DPS.

Sec. 411.0283. PURPOSE AND DUTIES. (a) Authorizes the unit, on receiving a request from a prosecuting attorney or a prosecuting attorney's designee qualified under Section 411.0286(b) to make such a request, to provide for the relocation or other protection of:

(1) a witness or prospective witness in a criminal case in this state:

(A) for an offense punishable as a first degree or capital felony; or

(B) in which the witness or prospective witness is likely to be subject to obstruction or retaliation under Section 36.06 (Obstruction or Retaliation), Penal Code, as determined by the unit; or

(2) a family member or person otherwise closely associated with a witness or prospective witness described by Subdivision (1), if the unit determines that the family member or person may be in danger of harm as a result of the witness's or prospective witness's participation in the criminal case.

(b) Authorizes DPS to adopt rules necessary for the establishment and administration of the unit, including rules relating to:

(1) the types of cases for which the unit is authorized to protect a witness or prospective witness;

(2) the process the unit will use to approve a request for witness protection;

(3) the types of protection services the unit will offer; and

(4) protocols that ensure the confidentiality and security of witness information.

Sec. 411.0284. GIFTS, GRANTS, AND DONATIONS. Authorizes DPS to solicit and accept gifts, grants, and donations from any source for the purpose of implementing this subchapter.

Sec. 411.0285. IMMUNITY FROM LIABILITY. Provides that DPS or an authorized agent of the unit is not liable for damages resulting from witness protection provided or a request for witness protection denied under this subchapter.

Sec. 411.0286. PROSECUTING ATTORNEY TRAINING. (a) Requires the unit to develop and provide a training course for prosecuting attorneys and the prosecuting attorneys' designees regarding:

(1) witness protection procedures and best practices;

(2) the types of cases for which the unit is authorized to protect a witness or prospective witness; and

(3) the process the unit will use to approve a request for witness protection.

(b) Requires a prosecuting attorney or a prosecuting attorney's designee to have completed the training course described by Subsection (a) to be qualified to request assistance from the unit.

(c) Requires DPS to offer the training course described by Subsection (a) at least once every two years.

SECTION 2. Requires DPS, not later than March 1, 2024, to establish the witness protection unit under Subchapter B-2, Chapter 411, Government Code, as added by this Act.

SECTION 3. Effective date: September 1, 2023.