

BILL ANALYSIS

Senate Research Center

S.B. 1896
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

After an arrest for certain offenses, a magistrate can issue an order of emergency protection for the victim and the victim's family or household members. The purpose of the magistrate's order is to prevent the defendant from inflicting further harm on the victim after the defendant is released from confinement.

There are two situations in which a magistrate can issue an order for emergency protection:

- after a person is arrested for an offense involving family violence, sexual assault, aggravated sexual assault, or stalking, the magistrate may issue an order of emergency protection before the defendant is released from custody; or
- after an arrest for an offense that involved family violence with serious bodily injury or involved the display or use of a deadly weapon, and before the defendant is released, the magistrate shall issue an order of emergency protection.

The magistrate's order is criminally enforceable and violation of the order is a Class A misdemeanor.

S.B. 1896 requires a law enforcement officer to provide to the magistrate the relevant information regarding the arrested person that is necessary for the issuance of a magistrate's order for emergency protection. This information is the same information that the arresting officer's agency will ultimately be responsible for submitting to the Texas Crime Information Center database.

S.B. 1896 amends current law relating to the provision of information regarding an arrested person and the victim of the offense to a magistrate for purposes of an order 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 14.06, Code of Criminal Procedure, by adding Subsection (a-1), as follows:

(a-1) Requires a person making an arrest or a person having custody, as applicable, on presentation of the person arrested for committing an offense described by Article 17.292(a) (relating to an offense involving family violence or an offense involving certain provisions of the Penal Code), to provide to the magistrate the information regarding the arrested person that is necessary for the issuance of a magistrate's order for emergency protection as provided by Article 17.292(d-3).

SECTION 2. Amends Chapter 15, Code of Criminal Procedure, by adding Article 15.052, as follows:

Art. 15.052. ADDITIONAL INFORMATION FOR COMPLAINTS FOR CERTAIN OFFENSES. (a) Requires a person making a complaint alleging the commission of an offense described by Article 17.292(a) to include the information necessary for the issuance of a magistrate's order for emergency protection as provided by Article 17.292(d-3).

(b) Provides that the failure of a person making the complaint to provide the information under Subsection (a) does not affect the sufficiency of the complaint.

SECTION 3. Amends Article 15.17, Code of Criminal Procedure, by adding Subsection (a-2), as follows:

(a-2) Requires a person making an arrest or a person having custody, as applicable, on presentation of the person arrested for committing an offense described by Article 17.292(a), to provide to the magistrate the information regarding the arrested person that is necessary for the issuance of a magistrate's order for emergency protection as provided by Article 17.292(d-3).

SECTION 4. Amends Article 17.292, Code of Criminal Procedure, by adding Subsection (d-3), as follows:

(d-3) Requires the person making the arrest or the person having custody of the defendant to provide to the magistrate any information regarding the defendant that will aid the magistrate in issuing an order for emergency protection under Article 17.292 (Magistrate's Order for Emergency Protections). Requires the person making the arrest or the person having custody, to the extent the information is available, to provide information regarding the victim of the offense to the magistrate to aid the magistrate in issuing the order for emergency protection. Provides that the person making the arrest or the person having custody is required, as applicable, at a minimum, to provide any information described by Section 411.042(b)(6) (relating to certain pertinent information about all persons subject to active orders), Government Code, available to the person and is authorized to use a form adopted by the Office of Court Administration of the Texas Judicial System under Section 72.039 (Protective Order Applications, Forms, and Materials), Government Code, for this purpose. Provides that the failure to provide the necessary information to the magistrate does not negate the magistrate's authority or duty to issue an order for emergency protection under this article.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2025.