

BILL ANALYSIS

Senate Research Center

S.B. 550
By: Moncrief
Criminal Justice
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As Filed

DIGEST

The present statute regarding a magistrate's orders for emergency protection was passed during the 74th Legislature as a result of the Senate Interim Committee on Domestic Violence, and enabled victims of domestic violence and stalking to seek an emergency order from a magistrate when the perpetrator was arrested. While the new statute has received much praise, various groups have offered suggestions for fine-tuning and clean-up.

Currently, an emergency protective order penalizes violations of the order with the possibility of a felony-grade offense, a \$10,000 fine, imprisonment in prison for as much as 10 years, or both the fine and imprisonment; and provides that subsequent violations may be punishable by as much as 99 years in prison. In addition, magistrates are not presently authorized to prohibit the arrested party from committing an assault on, communicating with, or going to or near, the person protected under the order. This legislation would grant magistrates such protective authority; lessen the penalties for violation of an emergency protective order to provide for not more than a \$4,000 fine, jail for as long as a year, or both; and would delete the provision regarding further violations.

PURPOSE

As proposed, S.B. 550 establishes the content of an emergency protective order, and provides the penalties for violations of the order.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subsections (a), (b), and (e), Article 17.292, Code of Criminal Procedure, to authorize a magistrate, in an order for emergency protection, to prohibit the arrested party from committing an assault on, communicating directly with, communicating a threat to, or going to or near the person protected under the order. Requires an order for emergency protection issued under this article to contain the following statements printed in bold-face type or in capital letters: "A violation of this order by commission of an act prohibited by the order may be punishable by a fine of as much as \$4,000, rather than \$10,000, or by confinement in jail, rather than imprisonment in prison, for as long as one year, rather than 10 years, or by both." Deletes the provision in the order authorizing further violations of the order to be punishable by as many as 99 years in prison. Makes conforming and standard recodification changes.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.