

BILL ANALYSIS

Senate Research Center
86R19908 MEW-F

C.S.S.B. 2390
By: Powell
State Affairs
4/5/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2390 would create consistency for law enforcement officers regarding their ability to enforce protective orders issued under Chapter 85, Family Code, and emergency protective orders issued under Article 17.292, Code of Criminal Procedure.

Last session, S.B. 1242 amended the Family Code for protective orders. The changes made by S.B. 1242 allow for the addresses of the victim and the designated person to remain confidential with the exception of law enforcement and the court. The designated address is forwarded to a law enforcement agency for the purposes of entering the information into the statewide law enforcement information system, Texas Criminal Information Center (TCIC). The protective address entered into the law enforcement information system allows immediate enforcement of the protective order.

These important and necessary changes were not included in Article 17.292, Code of Criminal Procedure, regarding a magistrate order of emergency protection. The proposed language in S.B. 2390 mirrors Section 82.011, Family Code, and addresses that issue. Law enforcement officers do not have access to the designated address and are thus unable to enforce violations of emergency protective orders. This is because the protected address is not entered into the statewide information system. If the respondent (the person against whom the order is issued) is present at the designated address, law enforcement officers do not have the information they need to make an arrest for violating the order.

S.B. 2390 would allow for the designated address for emergency protective orders to be entered into the statewide law enforcement information system. This gives law enforcement officials the ability to act in cases in which the respondent is in violation of the protective orders. This aids in ensuring the protection of the victim and the resident of the designated address. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2390 amends current law relating to the confidentiality of certain personal information of a person protected by a magistrate's 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 Chapter 17, Code of Criminal Procedure, by adding Article 17.294, as follows:

Art. 17.294. CONFIDENTIALITY OF CERTAIN INFORMATION IN ORDER FOR EMERGENCY PROTECTION. Authorizes the court issuing an order for emergency protection, on request by a person protected by the order issued under Article 17.292 (Magistrate's Order For Emergency Protection), or if determined necessary by the magistrate, to protect the person's mailing address by rendering an order:

(1) requiring the person protected under the order to disclose the person's mailing address to the court, designate another person to receive on behalf of the person any notice or documents filed with the court related to the order, and disclose the designated person's mailing address to the court;

(2) requiring the court clerk to strike the mailing address of the person protected by the order from the public records of the court, if applicable, and maintain a confidential record of the mailing address for use only by the court or 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 of the State of Texas; and

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

SECTION 2. Amends Section 411.042(b), Government Code, as follows:

(b) Requires information in the law enforcement information system relating to an active order to include the residence address and place of employment or business of the person protected by the order, rather than 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, and the child-care facility or school where a child protected by the order normally resides or which the child normally attends, rather than 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.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2019.