

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 325
By: Huffman
State Affairs
3/29/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that the current methods by which certain protective orders are applied for and issued do not include processes for actively informing law enforcement agencies, courts, governmental entities, or the general public of the individuals who are subject to such orders. S.B. 325 seeks to address this issue by establishing a protective order registry for certain protective orders and applications for protective orders filed in Texas. (Original Author's/ Sponsor's Statement of Intent)

C.S.S.B. 325 amends current law relating to establishing a protective order registry and the duties of court personnel and other persons and entities in regard to the registry.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 (Section 72.158, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 72, Government Code, by adding Subchapter F, as follows:

SUBCHAPTER F. PROTECTIVE ORDER REGISTRY

Sec. 72.151. DEFINITIONS. Defines "authorized user," "peace officer," "protective order," "protective order registry," "registry," and "race or ethnicity."

Sec. 72.152. APPLICABILITY. Establishes that this subchapter only applies to an application for a protective order filed under Chapter 82 (Applying for Protective Order), Family Code, or Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure, with respect to a person who is arrested for an offense involving family violence and a protective order issued under Chapters 83 (Temporary Ex Parte Orders) or 85 (Issuance of Protective Order), Code of Criminal Procedure, with respect to a person who is arrested for an offense involving family violence.

Sec. 72.153. PROTECTIVE ORDER REGISTRY. (a) Requires the Office of Court Administration of the Texas Judicial System (OCA), in consultation with the Texas Department of Public Safety and the courts of this state, to establish and maintain a centralized Internet-based registry for applications for protective orders filed in this state and protective orders issued in this state.

(b) Requires OCA to establish and maintain the registry in a manner that allows municipal and county case management systems to easily interface with the registry.

Sec. 72.154. PUBLIC ACCESS TO PROTECTIVE ORDER REGISTRY. (a) Requires OCA, subject to Subsections (c) and (d) and Section 72.158, to establish and maintain the registry in a manner that allows a member of the public, free of charge, to electronically search for and receive publicly accessible information contained in the registry regarding each protective order issued in this state. Requires the registry to be searchable by the

county of issuance, the name of the person who is the subject of the protective order, and the birth year of a person who is the subject of the protective order.

(b) Requires publicly accessible information regarding each protective order to consist of the court that issued the protective order, the case number, the full name, county of residence, birth year, and race or ethnicity of the person who is the subject of the protective order, the dates the protective order was issued and served, the dates the protective order was vacated, if applicable, and the date the protective order expired or will expire, if applicable.

(c) Authorizes a member of the public to only access the information in the registry described by Subsection (b).

(d) Prohibits OCA from allowing a member of the public to access through the registry any information related to a protective order issued under Article 17.292 (Magistrate's Order for Emergency Protection), Code of Criminal Procedure, or Chapter 83 (Requirements for Temporary Ex Parte Order), Family Code

Sec. 72.155. RESTRICTED ACCESS TO PROTECTIVE ORDER REGISTRY. (a) Requires the registry to include a copy of each application for a protective order filed in this state and a copy of each protective order issued in this state, including a vacated or expired order. Authorizes certain individuals to access that information under the registry.

(b) Requires OCA to ensure that certain individuals are able to search for and receive a copy of a filed application for a protective order or a copy of an issued protective order through the registry's Internet website.

Sec. 72.156. ENTRY OF APPLICATIONS. (a) Requires the clerk of the court, except as provided by Subsection (b), as soon as possible but not later than 24 hours after the time an application for a protective order is filed, to enter a copy of the application into the registry.

(b) Authorizes the clerk of the applicable court to delay entering the information under Subsection (a) into the registry only to the extent that the clerk lacks the specific information required to be entered.

(c) Requires OCA to ensure that a member of the public is not able to view through the registry's Internet website the application or any information related to the application entered into the registry under Subsection (a).

Sec. 72.157. ENTRY OF ORDERS. (a) Requires the clerk of the court, except as provided by Subsection (c), as soon as possible but not later than 24 hours after the time a court issues an original or modified protective order or extends the duration of a protective order, to enter into the registry a copy of the order and, if applicable, a notation regarding any modification or extension of the order and the information required under Section 72.154(b).

(b) Requires the clerk of the applicable court, for a protective order that is vacated or that has expired, to modify the record of the order in the registry to reflect the order's status as vacated or expired.

(c) Authorizes a clerk to delay entering information under Subsection (a) into the registry only to the extent that the court lacks the specific information required to be entered.

Sec. 72.158. REQUEST FOR GRANT OR REMOVAL OF PUBLIC ACCESS. (a) Requires OCA to ensure that the public may access information about protective orders, other than information about orders under Article 17.292, Code of Criminal Procedure, or Chapter 83, Family Code, through the registry, only if:

(1) a protected person requests that the office grant the public the ability to access the information described by Section 72.154(b) for the order protecting the person; and

(2) OCA approves the request.

(b) Authorizes a person whose request under Subsection (a) was approved by OCA to request that OCA remove the ability of the public to access the information that was the subject of the person's earlier request. Requires OCA, not later than the third business day after OCA receives a request under this subsection, to remove the ability of the public to access the information.

(c) Provides that the Supreme Court of Texas:

(1) is required to prescribe a form for use by a person requesting a grant or removal of public access as described by Subsections (a) and (b); and

(2) is authorized by rule to prescribe procedures for requesting a grant or removal of public access as described by Subsections (a) and (b).

SECTION 2. (a) Requires OCA, except as provided by Subsection (b) of this section, not later than June 1, 2020, to establish the protective order registry required by Section 72.153, Government Code, as added by this Act.

(b) Authorizes OCA to delay establishing the registry described by Subsection (a) of this section for a period not to exceed 90 days if the delay is authorized by resolution of the Texas Judicial Council.

(c) Requires OCA, not later than June 1, 2020, to establish and supervise a training program for magistrates, court staff, and peace officers on the use of the registry described by Subsection (a) of this section. Requires the training program to make all materials for use in this training program available to magistrates, court personnel, and peace officers.

SECTION 3. Prohibits OCA, notwithstanding Section 2 of this Act, from allowing a member of the public to view, before September 1, 2020, publicly accessible information described by Section 72.154(b), Government Code, as added by this Act, through the Internet website of the registry established under Subchapter F, Chapter 72, Government Code, as added by this Act.

SECTION 4. Makes application of Subchapter F, Chapter 72, Government Code, as added this Act, prospective to September 1, 2020.

SECTION 5. Requires OCA to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Authorizes OCA, but does not require OCA, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 6. Effective date: September 1, 2019.