

BILL ANALYSIS

H.B. 2315
By: Landgraf
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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. H.B. 2315 seeks to address this issue by establishing a protective order registry for applications for certain protective orders filed in Texas and for certain protective orders issued in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2315 amends the Government Code to require the Office of Court Administration of the Texas Judicial System (OCA), in consultation with the Department of Public Safety and the courts of the state, to establish and maintain a central, computerized, and Internet-based registry for applications for protective orders filed in Texas and magistrate's orders for emergency protection and for protective orders, temporary ex parte protective orders, and magistrate's orders for emergency protection issued in Texas in a manner that allows municipal and county case management systems to easily interface with the registry and that allows any person, free of charge, to electronically search for and receive publicly accessible information contained in the registry regarding each protective order issued in Texas that has not yet expired or been vacated. The bill requires the registry to be searchable by county and name and birth year of the person who is the subject of the protective order. The bill describes the publicly accessible information that must be in the registry and specifies that a member of the public may only access that described information. The bill requires OCA to establish the registry not later than January 1, 2018, but authorizes OCA to delay establishing the registry for a period not to exceed 90 days if the delay is authorized by resolution of the Texas Judicial Council.

H.B. 2315 requires the registry to include a copy of each application for a protective order filed in Texas and a copy of each protective order issued in Texas, including a vacated or expired order, and establishes that only an authorized user to whom OCA has given permission and the means to submit, modify, or remove records in the registry, a district attorney, a criminal district attorney, a county attorney, or a peace officer may access that information under the registry. The bill requires OCA to ensure that a district attorney, criminal district attorney, county attorney, city attorney, or peace officer is 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

website. The bill requires the court, as soon as possible but not later than 12 hours after the time an application for a protective order is filed, to enter a copy of the application into the registry and to ensure that a member of the public is not able to view through the registry's website the application or any information related to the application entered into the registry. A court may delay entering such information into the registry only to the extent that the court lacks the specific information required to be entered.

H.B. 2315 requires a magistrate, as soon as possible but not later than 12 hours after the time the magistrate 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 publicly accessible information required under the bill's provisions. The bill requires the applicable court to modify the record of an order in the registry that is vacated or that has expired to reflect the order's status as vacated or expired and to remove the ability of a member of the public to view through the registry's website the publicly accessible information about the record as described by the bill. A court may delay entering a copy of the order and, if applicable, a notation regarding any modification or extension of the order and any required publicly accessible information into the registry only to the extent that the court lacks the specific information required to be entered.

H.B. 2315 requires a magistrate, on request by a person protected by an order or member of the family or household of a person protected by an order, other than the person who is the subject of the protective order, to remove a member of the public's ability to view publicly available information about the record through the registry's website but prohibits the magistrate from restricting access to or removing information from the registry so that an authorized user, district attorney, criminal district attorney, county attorney, or peace officer is unable to search for and receive a copy of the order or information about the order. The bill subjects a magistrate's order for emergency protection to the bill's provisions and authorizes a magistrate to use any available staff and resources to carry out the magistrate's duties under the bill.

H.B. 2315 requires OCA to establish and supervise a training program for magistrates, court staff, and peace officers on use of the protective order registry not later than January 1, 2018, and requires the training program to emphasize the magistrate's duties in regards to the registry and to make all materials for use in the training program available to magistrates, court staff, and peace officers. The bill's provisions apply only to an application for a protective order filed on or after January 1, 2018.

EFFECTIVE DATE

September 1, 2017.