

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 27
By: Shapiro
State Affairs
4/4/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Under current law, Texas has no method of keeping home, school, or work addresses confidential for victims of domestic violence or stalking. As a result, many victims live in fear and try to remain underground by not enrolling their children in school, registering to vote, opening bank accounts, obtaining credit cards, or even ordering telephone service. As proposed, C.S.S.B. 27 creates a substitute address and a system by which to maintain a victim's true address confidential on government records.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 1 (Articles 56.83, 56.92, 56.95, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 56, Code of Criminal Procedure, by adding Subchapter C, as follows:

SUBCHAPTER C. ADDRESS CONFIDENTIALITY PROGRAM FOR VICTIMS OF FAMILY VIOLENCE OR STALKING

Art. 56.81. DEFINITIONS. Defines "applicant," "family violence," "family violence shelter center," "mail," "participant," and "program."

Art. 56.82. ADDRESS CONFIDENTIALITY PROGRAM. Requires the secretary of state to establish an address confidentiality program (program) to assist a victim of family violence or an offense under Section 42.072 (Stalking), Penal Code, in maintaining a confidential address. Requires the secretary of state to carry out certain other duties to implement the program. Sets forth guidelines regarding a summons, writ, notice, demand, or process served on the secretary of state on behalf of the participant. Requires the secretary of state to make and retain a copy of the envelope in which certified mail is received on behalf of the participant.

Art. 56.83. ELIGIBILITY TO PARTICIPATE IN PROGRAM. Sets forth that in order to be eligible for the program an applicant must follow certain procedures. Requires an application to contain certain features. Requires an application under this section to be completed by the applicant in person at the state or local agency or other entity with which the application is filed and requires that application to be forwarded by the agency or entity to the secretary of state. Provides that an applicant is not required to prove the commission of a criminal offense to be eligible for participation in the program. Provides that it is sufficient that the applicant make a signed, sworn statement. Authorizes the secretary of state by rule to establish additional eligibility requirements for participation in the program that are consistent with the purpose of the program. Provides that any assistance or counseling provided by the secretary of state to an applicant does not constitute legal advice.

Art. 56.84. CERTIFICATION; EXPIRATION. Requires the secretary of state to certify for

participation in the program an applicant who satisfies the eligibility requirements under Article 56.83. Provides that a certification under this article expires on the third anniversary of the date of certification.

Art. 56.85. **ISSUANCE OF IDENTIFICATION CARD.** Requires the secretary of state, on certification under Article 56.84(a), to issue to the participant an identification card containing the substitute address designated by the secretary of state.

Art. 56.86. **RENEWAL.** Requires a participant, to renew a certification under Article 56.84, to satisfy the eligibility requirements under Article 56.83 as if the participant were originally applying for participation in the program.

Art. 56.87. **INELIGIBILITY AND CANCELLATION.** Provides that an applicant is ineligible for, and authorizes a participant's exclusion from, participation in the program if the applicant or participant knowingly makes a false statement on an application filed under Article 56.83. Authorizes a participant to be excluded from participation in the program under certain conditions.

Art. 56.88. **WITHDRAWAL.** Authorizes a participant to withdraw from the program by notifying the secretary of state in writing of the withdrawal.

Art. 56.89. **RETURN OF IDENTIFICATION CARD.** Requires a participant to return to the secretary of state the identification card issued to the participant under Article 56.85 under certain conditions.

Art. 56.90. **CONFIDENTIALITY; DESTRUCTION OF INFORMATION.** Provides that information relating to a participant is confidential, except as provided by Article 56.93, and prohibits such information from being disclosed under Chapter 552 (Public Information), Government Code. Prohibits the secretary of state, except as provided by Article 56.82(d), from making a copy of any mail received by the secretary of state on behalf of the participant. Requires the secretary of state to destroy all information relating to a participant on the third anniversary of the date participation in the program ends.

Art. 56.91. **LIABILITY.** Provides that the secretary of state or an agent or employee of the secretary of state is immune from liability for any act or omission by the officer or agent in administering the program under certain conditions.

Article 56.92. **ACCEPTANCE OF SUBSTITUTE ADDRESS; EXEMPTIONS.** Requires a state or local agency to accept the substitute address designated by the secretary of state if it is given in place of the participant's true address, except as provided by Subsection (b). Authorizes the secretary of state by rule to permit an agency to require a participant's true address if it is necessary to perform a duty or function that is imposed by law.

Article 56.93. **EXCEPTIONS.** Requires the secretary of state to disclose a participant's true address if requested by a law enforcement agency or by court order, or if it is necessary to administer the program. Authorizes the secretary of state to disclose a participant's true address under certain conditions.

Article 56.94. **PROGRAM ASSISTANCE.** Requires the secretary of state to identify state and local agencies and other entities, whether for-profit or nonprofit, that provide counseling and shelter services to victims of family violence and require the agencies to provide access to the program, including specified forms of access.

Article 56.95. **RULES.** Requires the secretary of state to adopt rules to administer the

program.

SECTION 2. Amends Section 18.005(a), Election Code, to require each original and supplemental list of registered voters to contain certain items.

SECTION 3. Amends Chapter 18A, Election Code, by adding Section 18.0051, as follows:

Sec. 18.0051. CONTENTS OF LIST: SUBSTITUTE ADDRESS. Requires an original or supplemental list of registered voters to contain a voter's substitute address designated by the secretary of state under Article 56.82(b), Code of Criminal Procedure, for use by the voter in places of the voter's true address under certain conditions.

SECTION 4. Amends Chapter 82, Election Code, by adding Section 82.007, as follows:

Section 82.007. PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM. Provides that a qualified voter is eligible for early voting by mail, if at the time the early voting ballot application is submitted, the voter is accepted for participation in the address confidentiality program.

SECTION 5. Amends Chapter 84A, Election Code, by adding Section 84.0021, as follows:

Section 84.0021. CONTENTS OF APPLICATION FOR PARTICIPATION IN ADDRESS CONFIDENTIALITY PROGRAM; CONFIDENTIAL INFORMATION. Requires an early voting ballot application submitted by a qualified voter to include certain information. Provides that the information contained in the application relating to the address at which the applicant is registered to vote is confidential unless it is requested by a law enforcement agency or a court order.

SECTION 6. Amends Chapter 221, Election Code, by adding Section 221.018, as follows:

Sec. 221.018. EXAMINATION OF CERTAIN CONFIDENTIAL INFORMATION. Authorizes a tribunal hearing an election contest, notwithstanding Section 84.0021(b), to examine the information contained in an application under Section 84.0021 relating to the address at which the applicant is registered to vote. Authorizes information to be examined under this section only for the purpose of hearing an election contest.

SECTION 7. Requires the secretary of state to establish a program and adopt rules to administer the program no later than June 1, 2002.

SECTION 8. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends original As Filed S.B. 27 as follows:

SECTION 1. Amends proposed new Chapter 56C, Code of Criminal Procedure, as follows:

Art. 56.81. Redesignates text from original proposed Article 56.91 as Article 56.81 and amends text to define "mail."

Art. 56.82. Redesignates text from original proposed Article 56.92 as Article 56.82 and amends it by omitting text providing that a participant's true residential, business, or school address is confidential, except as provided by Article 56.96. Sets forth guidelines regarding a summons, writ, notice, demand, or process served on the secretary of state on behalf of the participant. Requires the secretary of state to make and retain a copy of the envelope in which

certified mail is received on behalf of the participant.

Art. 56.83. Redesignates text from original proposed Article 56.93 as Article 56.83 and amends the text by adding to the eligibility requirements for participation in the program. Makes conforming changes. Adds to the features required in an application. Replaces “or other person on whose behalf the application is made” with “or the other person in the applicant’s household on whose behalf the application is made.” Omits the text “or is alleged to have committed” the offense. Requires an application under this section to be completed by the applicant in person at the state or local agency or other entity with which the application is filed and requires that application to be forwarded by the agency or entity to the secretary of state.

Art. 56.84. CERTIFICATION; EXPIRATION. Requires the secretary of state to certify for participation in the program an applicant who satisfies the eligibility requirements under Article 56.83. Provides that a certification under this article expires on the third anniversary of the date of certification.

Art. 56.85. ISSUANCE OF IDENTIFICATION CARD. Requires the secretary of state, on certification under Article 56.84(a), to issue to the participant an identification card containing the substitute address designated by the secretary of state.

Art. 56.86. RENEWAL. Requires a participant, to renew a certification under Article 56.84, to satisfy the eligibility requirements under Article 56.83 as if the participant were originally applying for participation in the program.

Art. 56.87. Redesignates text from original proposed Article 56.94 as Article 56.87 and amends text to make conforming changes and to authorize a participant to be excluded from participation in the program under certain conditions.

Art. 56.88. WITHDRAWAL. Authorizes a participant to withdraw from the program by notifying the secretary of state in writing of the withdrawal.

Art. 56.89. RETURN OF IDENTIFICATION CARD. Requires a participant to return to the secretary of state the identification card issued to the participant under Article 56.85 under certain conditions.

Art. 56.90. CONFIDENTIALITY; DESTRUCTION OF INFORMATION. Provides that information relating to a participant is confidential, except as provided by Article 56.93, and prohibits such information from being disclosed under Chapter 552 (Public Information), Government Code. Prohibits the secretary of state, except as provided by Article 56.82(d), from making a copy of any mail received by the secretary of state on behalf of the participant. Requires the secretary of state to destroy all information relating to a participant on the third anniversary of the date participation in the program ends.

Art. 56.91. LIABILITY. Provides that the secretary of state or an agent or employee of the secretary of state is immune from liability for any act or omission by the officer or agent in administering the program under certain conditions.

Art. 56.92. Redesignates text from original proposed Article 56.95 as Article 56.92. No changes in text.

Art. 56.93. Redesignates text from original proposed Article 56.96 as Article 56.93. Omits the text “notwithstanding Article 56.92(c).” Authorizes the secretary of state to disclose a participant’s true address if the participant consents to the disclosure.

Art. 56.94. Redesignates text from original proposed Article 56.97 as Article 56.94. Amends

text to replace the title “AGENCY ASSISTANCE” with “PROGRAM ASSISTANCE.” Add the text “and other entities, whether for-profit or nonprofit, that provide counseling and shelter” services.

Art. 56.95. Redesignates text from original proposed Article 56.98 as Article 56.95. No changes in text.

SECTION 2. Omits text from original proposed SECTION 2 regarding Section 82.007 (redesignated as SECTION 4). Amends Section 18.005(a), Election Code, to require each original and supplemental list of registered voters to contain certain items.

SECTION 3. Omits text from original proposed SECTION 3 regarding Section 84.0021, Election Code (redesignated as Section 5). Amends Chapter 18A, Election Code, by adding Section 18.0051, as follows:

Sec. 18.0051. CONTENTS OF LIST: SUBSTITUTE ADDRESS. Requires an original or supplemental list of registered voters to contain a voter’s substitute address designated by the secretary of state under Article 56.82(b), Code of Criminal Procedure, for use by the voter in place of the voter’s true address under certain conditions.

SECTION 4. Omits text from original proposed SECTION 4 (redesignated as SECTION 7). Redesignates text from original SECTION 2 as SECTION 4. No changes in text.

SECTION 5. Omits text from original proposed SECTION 5 (redesignated as SECTION 8). Redesignates text from original SECTION 3 as SECTION 5 and amends text to replace “the election precinct in which” with “address at which.” Makes a conforming change. Adds the text “relating to the address at which the applicant is registered to vote.”

SECTION 6. Amends Chapter 221, Election Code, by adding Section 221.018, as follows:

Sec. 221.018. EXAMINATION OF CERTAIN CONFIDENTIAL INFORMATION. Authorizes a tribunal hearing an election contest, notwithstanding Section 84.0021(b), to examine the information contained in an application under Section 84.0021 relating to the address at which the applicant is registered to vote. Authorizes information to be examined under this section only for the purpose of hearing an election contest.

SECTION 7. Redesignates text from original proposed SECTION 4 as SECTION 7. No changes in text.

SECTION 8. Redesignates text from original proposed SECTION 5 as SECTION 8. No changes in text.