

## **BILL ANALYSIS**

C.S.H.B. 629  
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Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that there is not a process by which law enforcement agencies, courts, governmental entities, or the general public can easily access information regarding individuals who are subject to protective orders relating to family violence and that providing access to such information could reduce the recurrence of such violence and save lives. C.S.H.B. 629 seeks to address this issue by requiring the Office of Court Administration to establish a protective order registry for such purposes and setting out the duties of courts in regard to the registry.

### **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 rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 629 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 courts of the state, to establish and maintain a centralized Internet-based registry for the following:

- protective orders issued by a court in Texas to prevent family violence;
- magistrate's orders for emergency protection issued by a court in Texas with respect to a person who is arrested for an offense involving family violence;
- applications for such protective orders filed in Texas; and
- temporary ex parte protective orders issued under the Family Code by a court in Texas.

C.S.H.B. 629 requires OCA, subject to applicable bill provisions, to establish and maintain the registry in a manner that allows municipal and county case management systems to easily interface with the registry and that allows a member of the public, free of charge, to electronically search for and receive publicly accessible information contained in the registry regarding applicable protective orders issued in Texas.

C.S.H.B. 629 requires the publicly accessible information regarding each protective order to consist of certain information as prescribed by the bill and specifies that this prescribed information is the only registry information a member of the public may access.

C.S.H.B. 629 prohibits OCA from allowing a member of the public to access through the registry any information related to an applicable magistrate's order for emergency protection or an applicable temporary ex parte protective order.

C.S.H.B. 629 requires the registry to be searchable by the county of issuance and by the name and birth year of a person who is the subject of the protective order. The bill requires OCA to establish the registry not later than June 1, 2020, 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.

C.S.H.B. 629 requires the registry to include a copy of each application for an applicable protective order filed or issued in Texas, including a vacated or expired order, and restricts access to that information to an authorized user, the attorney general, a district attorney, a criminal district attorney, a county attorney, a municipal attorney, or a peace officer. The bill requires OCA to ensure that such persons 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 website. The bill defines "authorized user" as a person to whom OCA has given permission and the means to submit records to the registry or modify or remove records in the registry and excludes from the term members of the public who may only access through the registry's website certain information regarding protective orders.

C.S.H.B. 629 requires the clerk of a court, not later than 24 hours after an application for a protective order is filed, an original or modified protective order is issued, or the duration of a protective order is extended, to enter into the registry, as applicable, a copy of the application, a copy of the order, and, if applicable, a notation regarding any modification or extension of the order and the information prescribed by the bill that must be publicly accessible. The bill, with respect to such entries in the registry:

- requires OCA to ensure that a member of the public is not able to access an application for a protective order filed with a court or any information related to such an application through the registry's website;
- authorizes the clerk to delay entering applicable information into the registry only to the extent that the clerk lacks the specific required information; and
- requires the clerk, for a protective order that is vacated or that has been expired, to modify the record of the order in the registry to reflect the order's status.

C.S.H.B. 629 requires OCA to ensure that the public may access information through the registry about protective orders, other than information about an applicable magistrate's order for emergency protection or an applicable temporary ex parte protective order only if a protected person requests that OCA grant the public the ability to access the information described by the bill for the order protecting the person and OCA approves the request. The bill authorizes a person whose request was approved to request that OCA remove the ability of the public to access the information that was the subject of the person's earlier approved request and requires OCA, not later than the third business day after receiving such a request, to remove the ability of the public to access the information. The bill requires the Supreme Court of Texas to prescribe a form for use by a person requesting a grant or removal of such public access and authorizes the supreme court to prescribe by rule procedures for requesting such a grant or removal.

C.S.H.B. 629 requires OCA, not later than June 1, 2020, to establish and supervise a training program for magistrates, court personnel, and peace officers on the use of the registry. The training program must make all materials for use in the training program available to magistrates, court personnel, and peace officers.

C.S.H.B. 629 prohibits OCA from allowing a member of the public to view the publicly accessible information in the registry through the registry website before September 1, 2020.

C.S.H.B. 629 applies to an application for an applicable protective order filed or an applicable protective order issued on or after September 1, 2020.

C.S.H.B. 629 makes the requirement for OCA to implement the bill's provisions contingent on specific legislative appropriation but establishes that if the legislature does not make specific

appropriations OCA may, but is not required to, implement the bill's provisions using other appropriations available for those purposes.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 629 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the applicability of the bill's provisions, with respect to the registry, by:

- specifying that the applicable protective orders are orders to prevent family violence;
- specifying that the applicable magistrate's order for emergency protection is an order with respect to a person who is arrested for an offense involving family violence; and
- not including the provision making the bill's provisions applicable to injunctions or orders to prevent an individual from engaging in violent or threatening acts against, harassing, contacting or communicating with, or being in physical proximity to another individual.

The substitute changes the bill's provisions authorizing the removal, on request of an applicable person, of the ability of a member of the public to view information regarding applicable protective orders and requiring OCA to ensure such requested removal by including the following provisions:

- a provision explicitly prohibiting a member of the public from accessing through the registry any information related to an applicable magistrate's order for emergency protection with respect to a person who is arrested for an offense involving family violence or a temporary ex parte order issued under the Family Code;
- a provision requiring OCA to ensure public access only if access is requested by a protected person and if OCA approves that request;
- provisions authorizing a person whose request was so approved to subsequently request removal of public access to such information, requiring OCA to do so after receiving a request, and setting a deadline for the removal of public access that is so requested; and
- a provision authorizing the supreme court to prescribe by rule the procedures for requesting a grant or removal of such access.

The substitute replaces the authorization for OCA to prescribe a form for use by a person for requesting removal of public access with a requirement for the supreme court to prescribe a form for granting or requesting removal of public access.

The substitute includes the attorney general among the persons authorized to access copies of applications for protective orders and protective orders in the registry and includes the attorney general and an authorized user among the persons for whom OCA must ensure the ability 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 substitute includes a specification that the clerk of a court is required to enter and modify information and records in the registry and extends the deadlines by which such actions must be completed.

The substitute does not include a provision authorizing a court to use any available staff and resources to carry out the court's duties under the bill's provisions.

The substitute includes a provision conditioning a requirement to implement a bill provision on a

specific legislative appropriation for that purpose and includes a provision establishing that OCA may, but is not required to, use other available appropriations for such implementation.