

1-1 By: Swinford, et al. (Senate Sponsor - Carona) H.B. No. 13
1-2 (In the Senate - Received from the House May 9, 2007;
1-3 May 10, 2007, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 18, 2007, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 7, Nays 0; May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 13 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to homeland security issues, including border security
1-11 issues and law enforcement.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 51.212, Education Code, is amended to
1-14 read as follows:

1-15 Sec. 51.212. PEACE [~~SECURITY~~] OFFICERS AT PRIVATE
1-16 INSTITUTIONS. (a) The governing boards of private institutions of
1-17 higher education, including private junior colleges, are
1-18 authorized to employ and commission peace officers [~~campus security~~
1-19 ~~personnel~~] for the purpose of enforcing:

1-20 (1) state law [~~the law of this state~~] on the campuses
1-21 of private institutions of higher education; and

1-22 (2) state and local law, including applicable
1-23 municipal ordinances, at other locations, as permitted by
1-24 Subsection (b) or Section 51.2125.

1-25 (b) Any officer commissioned under the provisions of this
1-26 section is vested with all the powers, privileges, and immunities
1-27 of peace officers if the officer:

1-28 (1) is [~~while~~] on the property under the control and
1-29 jurisdiction of the respective private institution of higher
1-30 education or is otherwise performing [~~in the performance of his~~
1-31 ~~assigned~~] duties assigned to the officer by the institution,
1-32 regardless of whether the officer is on property under the control
1-33 and jurisdiction of the institution; or

1-34 (2) to the extent authorized by Section 51.2125, is:

1-35 (A) requested by another law enforcement agency
1-36 to provide assistance in enforcing state or local law, including a
1-37 municipal ordinance, and is acting in response to that request; or

1-38 (B) otherwise assisting another law enforcement
1-39 agency in enforcing a law described by Paragraph (A).

1-40 (c) Any officer assigned to duty and commissioned shall take
1-41 and file the oath required of peace officers, and shall execute and
1-42 file a good and sufficient bond in the sum of \$1,000, payable to the
1-43 governor, with two or more good and sufficient sureties,
1-44 conditioned that the officer [~~he~~] will fairly, impartially, and
1-45 faithfully perform the duties as may be required of the officer
1-46 [~~him~~] by law. The bond may be sued on from time to time in the name
1-47 of the person injured until the whole amount is recovered.

1-48 (d) [~~(b)~~] The governing boards of private institutions of
1-49 higher education are authorized to hire and pay on a regular basis
1-50 peace [~~law-enforcement~~] officers commissioned by an incorporated
1-51 city. The officers shall be under the supervision of the hiring
1-52 institution, but shall be subject to dismissal and disciplinary
1-53 action by the city. An incorporated city is authorized to contract
1-54 with a private institution of higher education for the use and
1-55 employment of its commissioned officers in any manner agreed to,
1-56 provided that there is no expense incurred by the city.

1-57 (e) [~~(c)~~] In this section, "private institution of higher
1-58 education" means a private or independent institution of higher
1-59 education as defined [~~has the meaning assigned~~] by Section 61.003
1-60 [~~61.003(15) of this code~~].

1-61 SECTION 2. Subchapter E, Chapter 51, Education Code, is
1-62 amended by adding Sections 51.2125 and 51.2126 to read as follows:

1-63 Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO

2-1 MUTUAL ASSISTANCE AGREEMENT. (a) This section applies only to a
 2-2 private institution of higher education, as defined by Section
 2-3 61.003, with a fall head count enrollment of more than 10,000
 2-4 students.

2-5 (b) If the institution has under its control and
 2-6 jurisdiction property that is contiguous to, or located in any part
 2-7 within the boundaries of, a municipality with a population of more
 2-8 than one million, in addition to exercising the authority provided
 2-9 under Section 51.212(d), the governing board of a private
 2-10 institution of higher education to which this section applies and
 2-11 the governing body of each municipality, regardless of the
 2-12 municipality's population, that is contiguous to, or the boundaries
 2-13 of which contain any part of, property under the control and
 2-14 jurisdiction of the private institution of higher education may
 2-15 enter into a written mutual assistance agreement in which peace
 2-16 officers commissioned by the institution or the applicable
 2-17 municipality serve the public interest by assisting, without any
 2-18 form of additional compensation or other financial benefit, the
 2-19 peace officers of the other party to the agreement in enforcing
 2-20 state or local law, including applicable municipal ordinances. The
 2-21 agreement must be reviewed at least annually by the institution and
 2-22 the municipality and may be modified at that time by a written
 2-23 agreement signed by each party. The agreement may be terminated at
 2-24 any time by a party to the agreement on the provision of reasonable
 2-25 notice to the other party to the agreement.

2-26 (c) A mutual assistance agreement authorized by this
 2-27 section may designate the geographic area in which the campus peace
 2-28 officers are authorized to provide assistance to the peace officers
 2-29 of the municipality.

2-30 (d) This section does not affect a municipality's duty to
 2-31 provide law enforcement services to any location within the
 2-32 boundaries of the municipality.

2-33 (e) A peace officer providing assistance under a mutual
 2-34 assistance agreement authorized by this section may make arrests
 2-35 and exercise all other authority given to peace officers under
 2-36 other state law. The municipal law enforcement agency has
 2-37 exclusive authority to supervise any campus peace officer operating
 2-38 under the agreement to assist the peace officers of the
 2-39 municipality. A municipal peace officer operating under the
 2-40 agreement to assist the campus peace officers remains under the
 2-41 supervision of the municipal law enforcement agency.

2-42 (f) In the same manner and to the same extent as a
 2-43 municipality is liable for an act or omission of a peace officer
 2-44 employed by the municipality, a private institution of higher
 2-45 education is liable for an act or omission of a campus peace officer
 2-46 operating under a mutual assistance agreement authorized by this
 2-47 section at a location other than property under the control and
 2-48 jurisdiction of the institution.

2-49 (g) This section does not limit the authority of a campus
 2-50 peace officer to make a warrantless arrest outside the officer's
 2-51 jurisdiction as described by Article 14.03(d), Code of Criminal
 2-52 Procedure.

2-53 Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF
 2-54 DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF
 2-55 ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) A campus peace
 2-56 officer acting under a mutual assistance agreement authorized by
 2-57 Section 51.2125 who is demoted, suspended, or terminated by the
 2-58 applicable private institution of higher education or who
 2-59 experiences a promotional bypass by the institution may elect to
 2-60 appeal the institution's action to an independent third party
 2-61 hearing examiner under this section.

2-62 (b) To elect to appeal to an independent third party hearing
 2-63 examiner under this section, the campus peace officer must submit
 2-64 to the head of the institution's law enforcement agency not later
 2-65 than the 30th day after the date of the action being appealed a
 2-66 written request stating the officer's decision to appeal to such a
 2-67 hearing examiner.

2-68 (c) The hearing examiner's decision is final and binding on
 2-69 all parties. If a campus peace officer elects to appeal the

3-1 institution's action to an independent third party hearing examiner
 3-2 under this section, the officer or institution may appeal the
 3-3 examiner's decision to a district court only as provided by
 3-4 Subsection (j).

3-5 (d) If a campus peace officer elects to appeal to a hearing
 3-6 examiner, the officer and the head of the institution's law
 3-7 enforcement agency or their designees shall attempt to agree on the
 3-8 selection of an impartial hearing examiner. If the parties do not
 3-9 agree on the selection of a hearing examiner before the 10th day
 3-10 after the date the appeal is filed, the parties immediately shall
 3-11 request a list of seven qualified neutral arbitrators from the
 3-12 American Arbitration Association or the Federal Mediation and
 3-13 Conciliation Service, or their successors in function. The officer
 3-14 and the agency head or their designees may agree on one of the seven
 3-15 neutral arbitrators on the list. If the parties do not agree before
 3-16 the fifth business day after the date the parties receive the list,
 3-17 the parties or their designees shall alternate striking a name from
 3-18 the list, and the single name remaining after all other names have
 3-19 been struck is selected as the hearing examiner. The parties or
 3-20 their designees shall agree on a date for the hearing.

3-21 (e) The appeal hearing must begin as soon as an appearance
 3-22 by the hearing examiner can be scheduled. If the hearing examiner
 3-23 cannot begin the hearing before the 45th day after the date of
 3-24 selection, the campus peace officer may, within 48 hours after
 3-25 learning of that fact, call for the selection of a new hearing
 3-26 examiner using the procedure prescribed by Subsection (d).

3-27 (f) In a hearing conducted under this section, the hearing
 3-28 examiner has the same duties and powers that a civil service
 3-29 commission has in conducting a hearing or hearing an appeal under
 3-30 Chapter 143, Local Government Code, including the right to issue
 3-31 subpoenas. The hearing examiner may:

3-32 (1) order that the campus peace officer be reinstated
 3-33 to the same position or status in which the officer was employed
 3-34 immediately before the demotion, suspension, or termination or, in
 3-35 the case of a promotional bypass, to the position or status with
 3-36 respect to which the officer experienced the bypass; and

3-37 (2) award the officer lost wages and any other
 3-38 compensation lost as a result of the disciplinary action or
 3-39 promotional bypass, as applicable.

3-40 (g) In a hearing conducted under this section, the parties
 3-41 may agree to an expedited hearing procedure. Unless otherwise
 3-42 agreed by the parties, in an expedited procedure the hearing
 3-43 examiner shall issue a decision on the appeal not later than the
 3-44 10th day after the date the hearing is completed.

3-45 (h) In an appeal that does not involve an expedited hearing
 3-46 procedure, the hearing examiner shall make a reasonable effort to
 3-47 issue a decision on the appeal not later than the 30th day after the
 3-48 later of the date the hearing is completed or the briefs are filed.
 3-49 The hearing examiner's inability to meet the time requirements
 3-50 imposed by this section does not affect the hearing examiner's
 3-51 jurisdiction, the validity of the disciplinary action or
 3-52 promotional bypass, or the hearing examiner's final decision.

3-53 (i) The hearing examiner's fees and expenses shall be paid
 3-54 in equal amounts by the parties. The costs of a witness shall be
 3-55 paid by the party who calls the witness.

3-56 (j) A district court may hear an appeal of a hearing
 3-57 examiner's decision only on the grounds that the hearing examiner
 3-58 was without jurisdiction or exceeded the examiner's jurisdiction or
 3-59 that the decision was procured by fraud, collusion, or other
 3-60 unlawful means. An appeal must be brought in the district court
 3-61 having jurisdiction in the municipality in which the institution is
 3-62 located.

3-63 SECTION 3. Section 418.042(a), Government Code, is amended
 3-64 to read as follows:

3-65 (a) The division shall prepare and keep current a
 3-66 comprehensive state emergency management plan. The plan may
 3-67 include:

3-68 (1) provisions for prevention and minimization of
 3-69 injury and damage caused by disaster;

- 4-1 (2) provisions for prompt and effective response to
- 4-2 disaster;
- 4-3 (3) provisions for emergency relief;
- 4-4 (4) provisions for energy emergencies;
- 4-5 (5) identification of areas particularly vulnerable
- 4-6 to disasters;
- 4-7 (6) recommendations for zoning, building
- 4-8 restrictions, and other land-use controls, safety measures for
- 4-9 securing mobile homes or other nonpermanent or semipermanent
- 4-10 structures, and other preventive and preparedness measures
- 4-11 designed to eliminate or reduce disasters or their impact;
- 4-12 (7) provisions for assistance to local officials in
- 4-13 designing local emergency management plans;
- 4-14 (8) authorization and procedures for the erection or
- 4-15 other construction of temporary works designed to protect against
- 4-16 or mitigate danger, damage, or loss from flood, fire, or other
- 4-17 disaster;
- 4-18 (9) preparation and distribution to the appropriate
- 4-19 state and local officials of state catalogs of federal, state, and
- 4-20 private assistance programs;
- 4-21 (10) organization of manpower and channels of
- 4-22 assistance;
- 4-23 (11) coordination of federal, state, and local
- 4-24 emergency management activities;
- 4-25 (12) coordination of the state emergency management
- 4-26 plan with the emergency management plans of the federal government;
- 4-27 (13) coordination of federal and state energy
- 4-28 emergency plans; ~~and~~
- 4-29 (14) the provision of necessary project management
- 4-30 resources to support the Texas Data Exchange or any other similar
- 4-31 comprehensive intelligence database; and
- 4-32 (15) other necessary matters relating to disasters.

SECTION 4. Section 421.002, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) The governor ~~[governor's homeland security strategy]~~ shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector.

(c) The governor's homeland security strategy ~~and~~ must include specific plans for:

- 4-41 (1) intelligence gathering and analysis;
- 4-42 (2) information sharing;
- 4-43 (3) reducing the state's vulnerability to homeland
- 4-44 security emergencies;
- 4-45 (4) protecting critical infrastructure;
- 4-46 (5) protecting the state's international border,
- 4-47 ports, and airports;
- 4-48 (6) detecting, deterring, and defending against
- 4-49 terrorism, including cyber-terrorism and biological, chemical, and
- 4-50 nuclear terrorism;
- 4-51 (7) positioning equipment, technology, and personnel
- 4-52 to improve the state's ability to respond to a homeland security
- 4-53 emergency;
- 4-54 (8) establishing and directing the Texas Fusion
- 4-55 [Infrastructure Protection Communications] Center and giving the
- 4-56 center certain forms of authority to implement the governor's
- 4-57 homeland security strategy; and
- 4-58 (9) using technological resources to:
 - 4-59 (A) facilitate the interoperability of
 - 4-60 government technological resources, including data, networks, and
 - 4-61 applications;
 - 4-62 (B) coordinate the warning and alert systems of
 - 4-63 state and local agencies;
 - 4-64 (C) incorporate multidisciplinary approaches to
 - 4-65 homeland security; and
 - 4-66 (D) improve the security of governmental and
 - 4-67 private sector information technology and information resources;
 - 4-68 and
 - 4-69 (10) creating and operating a multi-agency

5-1 coordination system as outlined in the federal Department of
 5-2 Homeland Security publication "National Incident Management
 5-3 System," published March 1, 2004.

5-4 (d) [~~(c)~~] The governor's homeland security strategy must
 5-5 complement and operate in coordination with the federal homeland
 5-6 security strategy.

5-7 SECTION 5. Subchapter A, Chapter 421, Government Code, is
 5-8 amended by adding Section 421.0025 to read as follows:

5-9 Sec. 421.0025. BORDER SECURITY COUNCIL. (a) The Border
 5-10 Security Council consists of members appointed by the governor.

5-11 (a-1) At least one-third of the members appointed under
 5-12 Subsection (a) must be residents of the Texas-Mexico border region,
 5-13 as defined by Section 2056.002.

5-14 (b) The Border Security Council shall develop and recommend
 5-15 to the office of the governor performance standards, reporting
 5-16 requirements, audit methods, and other procedures to ensure that
 5-17 funds allocated by the office of the governor for purposes related
 5-18 to security at or near this state's international border are used
 5-19 properly and that the recipients of the funds are accountable for
 5-20 the proper use of the funds.

5-21 (c) The Border Security Council shall advise the office of
 5-22 the governor regarding the allocation of funds by the office for
 5-23 purposes related to security at or near this state's international
 5-24 border. Recommendations relating to the allocation of those funds
 5-25 must be made by a majority of the members of the council.

5-26 (d) The governor shall designate one member of the Border
 5-27 Security Council as the chair. The chair shall arrange meetings of
 5-28 the Border Security Council at times determined by the members of
 5-29 the council.

5-30 (e) The meetings of the Border Security Council are subject
 5-31 to the requirements of Chapter 551 to the same extent as similar
 5-32 meetings of the Public Safety Commission. The plans and
 5-33 recommendations of the Border Security Council are subject to the
 5-34 requirements of Chapter 552 to the same extent as similar plans and
 5-35 recommendations of the Department of Public Safety of the State of
 5-36 Texas.

5-37 (f) Service on the Border Security Council by a state
 5-38 officer or employee or by an officer or employee of a local
 5-39 government is an additional duty of the member's office or
 5-40 employment.

5-41 SECTION 6. Section 421.003, Government Code, is amended to
 5-42 read as follows:

5-43 Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION; DATABASE
 5-44 MAINTENANCE. (a) The Department of Public Safety of the State of
 5-45 Texas is[+]

5-46 [~~(1) the repository in this state for the collection~~
 5-47 ~~of multijurisdictional criminal intelligence information that is~~
 5-48 ~~about terrorist activities or otherwise related to homeland~~
 5-49 ~~security activities, and~~

5-50 [~~(2)~~] the state agency that has primary responsibility
 5-51 to analyze and disseminate multijurisdictional criminal
 5-52 intelligence information that is about terrorist activities or
 5-53 otherwise related to homeland security activities [~~that~~
 5-54 ~~information~~]. An agency other than the department must obtain the
 5-55 approval of the department before the agency may analyze or
 5-56 disseminate information described by this subsection. An agency
 5-57 other than the department may use information described by this
 5-58 subsection only for a law enforcement or public safety purpose.

5-59 (b) Notwithstanding Section 421.002 or any other law, the
 5-60 Department of Public Safety of the State of Texas is the only state
 5-61 agency or state governmental entity that is authorized to develop,
 5-62 maintain, and control access to the Texas Data Exchange or any other
 5-63 similar comprehensive intelligence database. This subsection does
 5-64 not prohibit a state or local law enforcement agency that has been
 5-65 granted access to the Texas Data Exchange or any other similar
 5-66 comprehensive intelligence database from obtaining and using
 5-67 information from the database for a valid law enforcement purpose.

5-68 SECTION 7. Subchapter A, Chapter 421, Government Code, is
 5-69 amended by adding Section 421.0035 to read as follows:

6-1 Sec. 421.0035. CERTAIN COOPERATION REQUIRED. The governor
 6-2 and the governor's office shall cooperate with the Department of
 6-3 Public Safety to:

6-4 (1) transfer to the department control of the Texas
 6-5 Data Exchange or any other similar comprehensive intelligence
 6-6 database and any information contained in the Texas Data Exchange
 6-7 or any other similar comprehensive intelligence database;

6-8 (2) transfer to the department any federal funds
 6-9 received by the governor or the governor's office for the operation
 6-10 or maintenance of the Texas Data Exchange or any other similar
 6-11 comprehensive intelligence database; and

6-12 (3) ensure that the department receives any federal
 6-13 funds received by this state for the operation or maintenance of the
 6-14 Texas Data Exchange or any other similar comprehensive intelligence
 6-15 database.

6-16 SECTION 8. Section 421.071, Government Code, is amended to
 6-17 read as follows:

6-18 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local
 6-19 agency that performs a homeland security activity or a
 6-20 nongovernmental entity that contracts with a state or local agency
 6-21 to perform a homeland security activity shall cooperate with and
 6-22 assist the office of the governor, the Homeland Security Council,
 6-23 the Texas Fusion [~~Infrastructure Protection Communications~~]
 6-24 Center, and the National Infrastructure Protection Center in the
 6-25 performance of their duties under this chapter and other state or
 6-26 federal law.

6-27 SECTION 9. Section 421.072, Government Code, is amended by
 6-28 amending Subsection (a) and adding Subsection (d) to read as
 6-29 follows:

6-30 (a) The office of the governor, with the advice of the
 6-31 Border Security Council, shall:

6-32 (1) allocate available federal and state grants and
 6-33 other funding related to homeland security to state and local
 6-34 agencies and defense base development authorities created under
 6-35 Chapter 379B, Local Government Code, that perform homeland security
 6-36 activities;

6-37 (2) periodically review the grants and other funding
 6-38 for appropriateness and compliance;

6-39 (3) designate state administering agencies to
 6-40 administer all grants and other funding to the state related to
 6-41 homeland security; ~~and~~

6-42 (4) measure the effectiveness of the homeland security
 6-43 grants and other funding; and

6-44 (5) develop objective criteria to evaluate the use of
 6-45 grants and other funds allocated to an entity under this section,
 6-46 including taking into consideration:

6-47 (A) the number of officers and employees of the
 6-48 entity;

6-49 (B) the size and population of the geographic
 6-50 area under the jurisdiction of the entity;

6-51 (C) the size of the border area for which the
 6-52 entity is responsible, if applicable;

6-53 (D) the number of arrests made by the entity as a
 6-54 result of the funding, if applicable; and

6-55 (E) the number of prosecutions made by the entity
 6-56 as a result of the funding, if applicable.

6-57 (d) The office of the governor may allocate grants for
 6-58 homeland security purposes only to public law enforcement agencies
 6-59 or other public entities as provided by Subsection (a).

6-60 SECTION 10. The heading to Subchapter E, Chapter 421,
 6-61 Government Code, is amended to read as follows:

6-62 SUBCHAPTER E. TEXAS FUSION [~~INFRASTRUCTURE PROTECTION~~
 6-63 ~~COMMUNICATIONS~~] CENTER

6-64 SECTION 11. Section 421.081, Government Code, is amended to
 6-65 read as follows:

6-66 Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The
 6-67 Department of Public Safety of the State of Texas at the request of
 6-68 the governor shall provide facilities and administrative support
 6-69 for the Texas Fusion [~~Infrastructure Protection Communications~~]

Center.

SECTION 12. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. CERTAIN CONTRACTS FOR HOMELAND SECURITY OR LAW ENFORCEMENT TECHNOLOGY. A state governmental entity that issues a request for proposals for technological products or services for homeland security or law enforcement purposes must allow a business entity to substitute the qualifications of its executive officers or managers for the qualifications required of the business entity in the request for proposals.

SECTION 13. Chapter 370, Local Government Code, is amended by adding Section 370.004 to read as follows:

Sec. 370.004. PERFORMANCE OF IMMIGRATION OFFICER FUNCTIONS. (a) Notwithstanding any other law, a political subdivision of this state may enter into an agreement under Section 287(g), Immigration and Nationality Act (8 U.S.C. Section 1357(g)), to perform a function of an immigration officer.

(b) If a political subdivision enters into an agreement described by Subsection (a):

(1) neither the agreement nor the political subdivision may require a peace officer employed, appointed, or commissioned by the political subdivision to violate Article 2.131, Code of Criminal Procedure; and

(2) the agreement and the political subdivision must require a peace officer employed, appointed, or commissioned by the political subdivision to comply with the reporting requirements described by Article 2.133, Code of Criminal Procedure, when the peace officer is performing a function of an immigration officer.

SECTION 14. The heading to Chapter 370, Local Government Code, is amended to read as follows:

CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL AND COUNTY~~] HEALTH AND PUBLIC SAFETY AFFECTING MORE THAN ONE TYPE OF LOCAL GOVERNMENT

SECTION 15. Article 61.02(c), Code of Criminal Procedure, is amended to read as follows:

(c) Criminal information collected under this chapter relating to a criminal street gang must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:
(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang;

(B) a self-admission by the individual of criminal street gang membership that is made during a judicial proceeding; or

(C) any two of the following:
(i) [~~(A)~~] a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding;

(ii) [~~(B)~~] an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) [~~(C)~~] a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) [~~(D)~~] evidence that the individual frequents a documented area of a criminal street gang and [~~7~~] associates with known criminal street gang members;

(v) evidence that the individual [~~7~~ and] uses, in more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of the format or medium in which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by Subparagraph (iv); or

(vi) [~~(E)~~] evidence that the individual has been arrested or taken into custody with known criminal street gang

8-1 members for an offense or conduct consistent with criminal street
8-2 gang activity.

8-3 SECTION 16. Article 61.06(c), Code of Criminal Procedure,
8-4 is amended to read as follows:

8-5 (c) In determining whether information is required to be
8-6 removed from an intelligence database under Subsection (b), the
8-7 three-year period does not include any period during which the
8-8 individual who is the subject of the information is:

8-9 (1) confined in a correctional facility operated by or
8-10 under contract with the [institutional division or the state jail
8-11 division of the] Texas Department of Criminal Justice;

8-12 (2) committed to a secure correctional facility
8-13 operated by or under contract with the Texas Youth Commission, as
8-14 defined by Section 51.02, Family Code; or

8-15 (3) confined in a county jail or a facility operated by
8-16 a juvenile board in lieu of being confined in a correctional
8-17 facility operated by or under contract with the Texas Department of
8-18 Criminal Justice or being committed to a secure correctional
8-19 facility operated by or under contract with the Texas Youth
8-20 Commission.

8-21 SECTION 17. Chapter 61, Code of Criminal Procedure, is
8-22 amended by adding Article 61.075 to read as follows:

8-23 Art. 61.075. RIGHT TO REQUEST EXISTENCE OF CRIMINAL
8-24 INFORMATION. (a) A person or the parent or guardian of a child may
8-25 request a law enforcement agency to determine whether the agency
8-26 has collected or is maintaining, under criteria established under
8-27 Article 61.02(c), criminal information relating solely to the
8-28 person or child. The law enforcement agency shall respond to the
8-29 request not later than the 10th business day after the date the
8-30 agency receives the request.

8-31 (b) Before responding to a request under Subsection (a), a
8-32 law enforcement agency may require reasonable written verification
8-33 of the identity of the person making the request and the
8-34 relationship between the parent or guardian and the child, if
8-35 applicable, including written verification of an address, date of
8-36 birth, driver's license number, state identification card number,
8-37 or social security number.

8-38 SECTION 18. The speaker of the house of representatives and
8-39 the lieutenant governor may assign a joint interim committee to
8-40 evaluate whether it would add efficiency to the state's criminal
8-41 justice system, in terms of time and money, for this state or for
8-42 certain political subdivisions of this state to seek one or more
8-43 agreements under Section 287(g), Immigration and Nationality Act (8
8-44 U.S.C. Section 1357(g)).

8-45 SECTION 19. (a) Not later than September 1, 2008, the
8-46 Border Security Council, in consultation with any relevant agency,
8-47 shall prepare, issue, and distribute to the governor and each
8-48 member of the legislature a report:

8-49 (1) that provides the number of victims of human
8-50 trafficking that have crossed the border, annually since the year
8-51 2000, as defined by Chapter 20A, Penal Code, with at least the
8-52 following information:

8-53 (A) the age, gender, and nationality of the
8-54 victims;

8-55 (B) the types of services provided to the
8-56 victims, if any; and

8-57 (C) the agencies that provided services to
8-58 victims;

8-59 (2) outlining how existing laws and rules concerning
8-60 victims and witnesses address or fail to address the needs of
8-61 victims of human trafficking; and

8-62 (3) recommending areas of improvement and
8-63 modifications in existing laws and rules.

8-64 (b) Not later than September 1, 2008, the Border Security
8-65 Council, in consultation with any relevant agency, shall prepare,
8-66 issue, and distribute to the governor and each member of the
8-67 legislature a report:

8-68 (1) outlining how existing social service programs
8-69 address or fail to address the needs of victims of human

9-1 trafficking;

9-2 (2) with respect to those needs, outlining the
9-3 interplay of existing social service programs with federally funded
9-4 victim service programs; and

9-5 (3) recommending areas of improvement and
9-6 modifications in existing social service programs.

9-7 SECTION 20. This Act takes effect immediately if it
9-8 receives a vote of two-thirds of all the members elected to each
9-9 house, as provided by Section 39, Article III, Texas Constitution.
9-10 If this Act does not receive the vote necessary for immediate
9-11 effect, this Act takes effect September 1, 2007.

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