

By: Hochberg

H.B. No. 1658

A BILL TO BE ENTITLED

AN ACT

relating to information contained in a criminal street gang intelligence database.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. 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~~[, 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 members for an offense or conduct consistent with criminal street gang activity.

SECTION 2. Article 61.06(c), Code of Criminal Procedure, is amended to read as follows:

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

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

1 (2) committed to a secure correctional facility
2 operated by or under contract with the Texas Youth Commission, as
3 defined by Section 51.02, Family Code; or

4 (3) confined in a county jail or a facility operated by
5 a juvenile board in lieu of being confined in a correctional
6 facility operated by or under contract with the Texas Department of
7 Criminal Justice or being committed to a secure correctional
8 facility operated by or under contract with the Texas Youth
9 Commission.

10 SECTION 3. Chapter 61, Code of Criminal Procedure, is
11 amended by adding Article 61.075 to read as follows:

12 Art. 61.075. RIGHT TO REQUEST EXISTENCE OF CRIMINAL
13 INFORMATION. (a) A person or the parent or guardian of a child may
14 request a law enforcement agency to determine whether the agency
15 has collected or is maintaining under this chapter criminal
16 information relating solely to the person or child. The law
17 enforcement agency shall respond to the request not later than the
18 10th business day after the date the agency receives the request.

19 (b) Before responding to a request under Subsection (a), a
20 law enforcement agency may require reasonable written verification
21 of the identity of the person making the request and the
22 relationship between the parent or guardian and the child, if
23 applicable, including written verification of an address, date of
24 birth, driver's license number, state identification card number,
25 or social security number.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2007.