

BILL ANALYSIS

S.B. 418
By: Carona
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Law enforcement agencies across the state deal with thousands of different criminal street gangs and their members. In dealing with these dangerous groups, the value of gang-related intelligence data to law enforcement is two-fold. Such information may prove invaluable in law enforcement and may even save the life of a law enforcement officer.

Currently, under Section 61.02 of the Code of Criminal Procedure, a law enforcement agency in Texas has the option to compile gang data into a local or regional database. If a law enforcement agency compiles the data, it must provide the information to the Department of Public Safety (DPS) to be included in the statewide database. However, there is currently no requirement that local law enforcement agencies collect any data on gangs within their jurisdiction.

DPS operates and maintains a statewide database, the Texas Gang Database, which is housed in Austin. This database was established in 1999 and has the capability to receive, maintain, and share information provided by more than 1,000 law enforcement agencies in Texas.

S.B. 418 amends current law relating to the compilation, maintenance, and release of information in a criminal street gang intelligence database by law enforcement agencies and criminal justice agencies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 4 (Article 61.12, Code of Criminal Procedure) of this bill.

ANALYSIS

SECTION 1. Amends Article 61.02, Code of Criminal Procedure, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Requires, rather than authorizes, subject to Subsection (b), a criminal justice agency to compile criminal information into an intelligence database for the purpose of investigating or prosecuting criminal street gangs. Deletes existing text authorizing the information to be compiled on paper, by computer, or in any other useful manner.

(b) Requires, rather than authorizes, a law enforcement agency in a municipality with a population of 50,000 or more or in a county with a population of 100,000 or more to compile and maintain in a local or regional intelligence database criminal information relating to a criminal street gang as provided by Subsection (a). Requires that the information be compiled and maintained in accordance with the criminal intelligence systems operating policies established under 28 C.F.R. Section 23.1 et seq. and the submission criteria established under Subsection (c). Deletes existing text providing that the criminal information may be compiled and maintained in a local or regional database only if the law enforcement agency compiles and maintains it.

(b-1) Authorizes information described by this article to be compiled on paper, by computer, or in any other useful manner by a criminal justice agency or law enforcement agency.

SECTION 2. Amends Articles 61.03(a) and (c), Code of Criminal Procedure, as follows:

(a) Authorizes a criminal justice agency to release on request information maintained under this chapter, rather than authorizing a criminal justice agency that maintains criminal information under this chapter to release the information on request, to another criminal justice agency, a court, or a defendant in a criminal proceeding who is entitled to the discovery of the information under Chapter 39 (Depositions and Discovery).

(c) Requires a local law enforcement agency, described by Article 61.02(b) to send to the Texas Department of Public Safety (DPS) information compiled and maintained under this chapter. Deletes existing text requiring a local law enforcement agency, if an agency compiles and maintains information under this chapter relating to a criminal street gang, to send the information to DPS.

SECTION 3. Amends Articles 61.04(b) and (d), Code of Criminal Procedure, as follows:

(b) Authorizes a criminal justice agency to release information maintained under this chapter to an attorney representing a child who is a party to a proceeding under Title 3 (Juvenile Justice Code), Family Code, if the juvenile court determines the information is material to the proceeding and is not privileged under law. Makes conforming changes.

(d) Authorizes the governing body of a county or municipality served by a law enforcement agency described by Article 61.02(b) to adopt a policy to notify the parent or guardian of a child of the agency's observations relating to the child's association with a criminal street gang. Makes conforming changes.

SECTION 4. Amends Chapter 61, Code of Criminal Procedure, by adding Article 61.12, as follows:

Art. 61.12. DATABASE USER TRAINING. (a) Requires DPS to enter into a memorandum of understanding with the United States Department of Justice or other appropriate federal department or agency to provide any person in this state who enters information into or retrieves information from an intelligence database described by this chapter with training regarding the operating principles described by 28 C.F.R. Part 23, as those principles relate to an intelligence database established or maintained under this chapter.

(b) Requires a person in this state who enters information into or retrieves information from an intelligence database described by this chapter to complete continuing education training on the material described by Subsection (a) at least once for each continuous two-year period the person has primary responsibility for performing a function described by this subsection.

(c) Requires DPS to adopt rules necessary to implement this article.

SECTION 5. (a) Requires DPS, not later than October 1, 2009, to adopt rules as required by Article 61.12, Code of Criminal Procedure, as added by this Act.

(b) Requires DPS to enter into a memorandum of understanding with the United States Department of Justice or other appropriate federal department or agency, as required by Article 61.12, Code of Criminal Procedure, as added by this Act, not later than December 1, 2009.

SECTION 6. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.

