

By: Carona

S.B. No. 418

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the compilation, maintenance, and release of
3 information in a criminal street gang intelligence database by law
4 enforcement agencies and criminal justice agencies.

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

6 SECTION 1. Article 61.02, Code of Criminal Procedure, is
7 amended by amending Subsections (a) and (b) and adding Subsection
8 (b-1) to read as follows:

9 (a) Subject to Subsection (b), a criminal justice agency
10 shall ~~[may]~~ compile criminal information into an intelligence
11 database for the purpose of investigating or prosecuting the
12 criminal activities of criminal combinations or criminal street
13 gangs. ~~[The information may be compiled on paper, by computer, or~~
14 ~~in any other useful manner.]~~

15 (b) A law enforcement agency in a municipality with a
16 population of 50,000 or more or in a county with a population of
17 100,000 or more shall ~~[may]~~ compile and maintain in a local or
18 regional intelligence database criminal information relating to a
19 criminal street gang as provided by Subsection (a). The
20 information must be compiled and maintained ~~[in a local or regional~~
21 ~~intelligence database only if the agency compiles and maintains the~~
22 ~~information]~~ in accordance with the criminal intelligence systems
23 operating policies established under 28 C.F.R. Section 23.1 et seq.
24 and the submission criteria established under Subsection (c).

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

4 SECTION 2. Subsections (a) and (c), Article 61.03, Code of
5 Criminal Procedure, are amended to read as follows:

6 (a) A criminal justice agency [~~that maintains criminal~~
7 ~~information under this chapter~~] may release on request [~~the~~]
8 information maintained under this chapter [~~on request~~] to:

- 9 (1) another criminal justice agency;
10 (2) a court; or
11 (3) a defendant in a criminal proceeding who is
12 entitled to the discovery of the information under Chapter 39.

13 (c) A [~~If a~~] local law enforcement agency described by
14 Article 61.02(b) [~~compiles and maintains information under this~~
15 ~~chapter relating to a criminal street gang, the agency~~] shall send
16 to the department [~~the~~] information compiled and maintained under
17 this chapter [~~to the department~~].

18 SECTION 3. Subsections (b) and (d), Article 61.04, Code of
19 Criminal Procedure, are amended to read as follows:

20 (b) A criminal justice agency [~~that maintains information~~
21 ~~under this chapter~~] may release [~~the~~] information maintained under
22 this chapter to an attorney representing a child who is a party to a
23 proceeding under Title 3, Family Code, if the juvenile court
24 determines the information:

- 25 (1) is material to the proceeding; and
26 (2) is not privileged under law.

27 (d) The [~~If a local law enforcement agency collects criminal~~

1 ~~information under this chapter relating to a criminal street gang,~~
2 ~~the~~] governing body of a a ~~[the]~~ county or municipality served by a
3 ~~[the]~~ law enforcement agency described by Article 61.02(b) may
4 adopt a policy to notify the parent or guardian of a child of the
5 agency's observations relating to the child's association with a
6 criminal street gang.

7 SECTION 4. Chapter 61, Code of Criminal Procedure, is
8 amended by adding Article 61.12 to read as follows:

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

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

24 (c) The department shall adopt the rules necessary to
25 implement this article.

26 SECTION 5. (a) Not later than October 1, 2009, the
27 Department of Public Safety of the State of Texas shall adopt rules

1 as required by Article 61.12, Code of Criminal Procedure, as added
2 by this Act.

3 (b) The Department of Public Safety of the State of Texas
4 shall enter into a memorandum of understanding with the United
5 States Department of Justice or other appropriate federal
6 department or agency, as required by Article 61.12, Code of
7 Criminal Procedure, as added by this Act, not later than December 1,
8 2009.

9 SECTION 6. This Act takes effect September 1, 2009.