

1-1 By: Carona S.B. No. 418
1-2 (In the Senate - Filed January 7, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 17, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 0; April 17, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 418 By: Carona

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

1-10 relating to the compilation, maintenance, and release of
1-11 information in a criminal street gang intelligence database by law
1-12 enforcement agencies and criminal justice agencies.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 61.02, Code of Criminal Procedure, is
1-15 amended by amending Subsections (a) and (b) and adding Subsection
1-16 (b-1) to read as follows:

1-17 (a) Subject to Subsection (b), a criminal justice agency
1-18 shall ~~[may]~~ compile criminal information into an intelligence
1-19 database for the purpose of investigating or prosecuting the
1-20 criminal activities of criminal combinations or criminal street
1-21 gangs. ~~[The information may be compiled on paper, by computer, or
1-22 in any other useful manner.]~~

1-23 (b) A law enforcement agency in a municipality with a
1-24 population of 50,000 or more or in a county with a population of
1-25 100,000 or more shall ~~[may]~~ compile and maintain in a local or
1-26 regional intelligence database criminal information relating to a
1-27 criminal street gang as provided by Subsection (a). The
1-28 information must be compiled and maintained ~~[in a local or regional~~
1-29 ~~intelligence database only if the agency compiles and maintains the~~
1-30 ~~information]~~ in accordance with the criminal intelligence systems
1-31 operating policies established under 28 C.F.R. Section 23.1 et seq.
1-32 and the submission criteria established under Subsection (c).

1-33 (b-1) Information described by this article may be compiled
1-34 on paper, by computer, or in any other useful manner by a criminal
1-35 justice agency or law enforcement agency.

1-36 SECTION 2. Subsections (a) and (c), Article 61.03, Code of
1-37 Criminal Procedure, are amended to read as follows:

1-38 (a) A criminal justice agency ~~[that maintains criminal~~
1-39 ~~information under this chapter]~~ may release on request ~~[the]~~
1-40 information maintained under this chapter ~~[on request]~~ to:

- 1-41 (1) another criminal justice agency;
1-42 (2) a court; or
1-43 (3) a defendant in a criminal proceeding who is
1-44 entitled to the discovery of the information under Chapter 39.

1-45 (c) A ~~[If a]~~ local law enforcement agency described by
1-46 Article 61.02(b) ~~[compiles and maintains information under this~~
1-47 ~~chapter relating to a criminal street gang, the agency]~~ shall send
1-48 to the department ~~[the]~~ information compiled and maintained under
1-49 this chapter ~~[to the department]~~.

1-50 SECTION 3. Subsections (b) and (d), Article 61.04, Code of
1-51 Criminal Procedure, are amended to read as follows:

1-52 (b) A criminal justice agency ~~[that maintains information~~
1-53 ~~under this chapter]~~ may release ~~[the]~~ information maintained under
1-54 this chapter to an attorney representing a child who is a party to a
1-55 proceeding under Title 3, Family Code, if the juvenile court
1-56 determines the information:

- 1-57 (1) is material to the proceeding; and
1-58 (2) is not privileged under law.

1-59 (d) ~~The~~ ~~[If a local law enforcement agency collects criminal~~
1-60 ~~information under this chapter relating to a criminal street gang,~~
1-61 ~~the]~~ governing body of a ~~[the]~~ county or municipality served by a
1-62 ~~[the]~~ law enforcement agency described by Article 61.02(b) may
1-63 adopt a policy to notify the parent or guardian of a child of the

2-1 agency's observations relating to the child's association with a
2-2 criminal street gang.

2-3 SECTION 4. Chapter 61, Code of Criminal Procedure, is
2-4 amended by adding Article 61.12 to read as follows:

2-5 Art. 61.12. DATABASE USER TRAINING. (a) The department
2-6 shall enter into a memorandum of understanding with the United
2-7 States Department of Justice or other appropriate federal
2-8 department or agency to provide any person in this state who enters
2-9 information into or retrieves information from an intelligence
2-10 database described by this chapter with training regarding the
2-11 operating principles described by 28 C.F.R. Part 23, as those
2-12 principles relate to an intelligence database established or
2-13 maintained under this chapter.

2-14 (b) A person in this state who enters information into or
2-15 retrieves information from an intelligence database described by
2-16 this chapter shall complete continuing education training on the
2-17 material described by Subsection (a) at least once for each
2-18 continuous two-year period the person has primary responsibility
2-19 for performing a function described by this subsection.

2-20 (c) The department shall adopt the rules necessary to
2-21 implement this article.

2-22 SECTION 5. (a) Not later than October 1, 2009, the
2-23 Department of Public Safety of the State of Texas shall adopt rules
2-24 as required by Article 61.12, Code of Criminal Procedure, as added
2-25 by this Act.

2-26 (b) The Department of Public Safety of the State of Texas
2-27 shall enter into a memorandum of understanding with the United
2-28 States Department of Justice or other appropriate federal
2-29 department or agency, as required by Article 61.12, Code of
2-30 Criminal Procedure, as added by this Act, not later than December 1,
2-31 2009.

2-32 SECTION 6. This Act takes effect September 1, 2009.

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