

By: Carona

S.B. No. 938

A BILL TO BE ENTITLED

AN ACT

relating to a central database containing information about certain violent offenders who are members of a criminal street gang.

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

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 61A to read as follows:

CHAPTER 61A. VIOLENT GANG MEMBER REGISTRATION PROGRAM

Art. 61A.01. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Public Safety of the State of Texas.

(2) "Internet domain name" has the meaning assigned by Section 48.002, Business & Commerce Code, as added by Section 1, Chapter 544, Acts of the 79th Legislature, Regular Session, 2005.

(3) "Local law enforcement authority" has the meaning assigned by Article 62.001.

(4) "Web page" has the meaning assigned by Section 48.002, Business & Commerce Code, as added by Section 1, Chapter 554, Acts of the 79th Legislature, Regular Session, 2005.

Art. 61A.02. CENTRAL DATABASE OF VIOLENT GANG MEMBERS. (a) The department shall maintain a computerized central database containing information regarding persons who:

(1) have been identified in accordance with Article 61.02 as members of a criminal street gang;

(2) have been convicted of or received a grant of

1 deferred adjudication for two or more felony offenses; and

2 (3) in connection with the conviction or grant of
3 deferred adjudication, were subsequently discharged, paroled,
4 placed in a nonsecure community program for juvenile offenders, or
5 placed on juvenile probation, community supervision, or mandatory
6 supervision.

7 (b) A person described by Subsection (a) shall register with
8 the department until the 10th anniversary of the date the person was
9 last convicted of or received a grant of deferred adjudication for a
10 felony offense.

11 (c) The information contained in the database is public
12 information, with the exception of any information:

13 (1) regarding the person's social security number,
14 driver's license number, or telephone number; or

15 (2) that would identify the victim of an offense for
16 which the person was convicted or received a grant of deferred
17 adjudication.

18 (d) The department shall publish on its Internet website all
19 public information contained in the database.

20 (e) The department, in cooperation with the Board of Pardons
21 and Paroles, the Texas Department of Criminal Justice, the Texas
22 Youth Commission, the Texas Juvenile Probation Commission, and the
23 Commission on Jail Standards, shall by rule design and implement a
24 system for the registration of persons described by Subsection (a).
25 The system must establish requirements and procedures for:

26 (1) a person described by Subsection (a) to be
27 notified, before the person's release, of the person's duty to

1 register with a local law enforcement authority until the 10th
2 anniversary of the date the person was last convicted of or received
3 a grant of deferred adjudication for a felony offense;

4 (2) the person to register with a local law
5 enforcement authority:

6 (A) annually;

7 (B) every 90 days if the person is determined by
8 the department to be high risk because of the person's status as a
9 repeat offender or because of the violent nature of the offense
10 charged; or

11 (C) every 30 days if the person does not have a
12 permanent address;

13 (3) the person to register with a local law
14 enforcement authority not later than five days after the date the
15 person changes address;

16 (4) a person who is described by Subsection (a) and who
17 operates an online business to:

18 (A) disclose the name, Internet domain name, and
19 web page of the business, if applicable, to the local law
20 enforcement authority with whom the person registers; and

21 (B) notify the local law enforcement authority
22 not later than five days after the date the name, Internet domain
23 name, or web page of the business changes;

24 (5) the person to request and be granted an exclusion
25 from the database;

26 (6) the database to track whether a person described
27 by Subsection (a) is in compliance with registration requirements

1 and, if the person is not in compliance, to make that information
2 available to other persons requesting the information;

3 (7) a local law enforcement agency to promptly forward
4 registration information to the department for use in the database;

5 (8) the inclusion in the database and on the
6 department's Internet website of a recent photograph of the person,
7 updated annually; and

8 (9) the department to update the database daily.

9 (f) This section does not apply to a person about whom
10 information is included in the database maintained under Article
11 62.005. Procedures relating to the dissemination of information
12 about those persons and registration requirements for those persons
13 are as provided by Chapter 62 and by Section 411.135, Government
14 Code.

15 SECTION 2. Section 411.135(a), Government Code, is amended
16 to read as follows:

17 (a) Any person is entitled to obtain from the department:

18 (1) any information described as public information
19 under Chapter 61A or 62, Code of Criminal Procedure, [~~as added by~~
20 ~~Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,~~]
21 including, to the extent available, a recent photograph of each
22 person subject to registration under Chapter 61A or 62 [~~that~~
23 ~~chapter~~]; and

24 (2) criminal history record information maintained by
25 the department that relates to the conviction of or a grant of
26 deferred adjudication to a person for any criminal offense,
27 including arrest information that relates to the conviction or

1 grant of deferred adjudication.

2 SECTION 3. (a) Chapter 61A, Code of Criminal Procedure, as
3 added by this Act, applies only to a person who is convicted of or
4 receives a grant of deferred adjudication for a felony offense on or
5 after September 1, 1999.

6 (b) The central database required by Chapter 61A, Code of
7 Criminal Procedure, as added by this Act, must be designed and
8 implemented not later than March 1, 2010.

9 SECTION 4. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2009.