

By: Whitmire, Huffman

S.B. No. 779

A BILL TO BE ENTITLED

AN ACT

relating to a central database containing information about certain persons who have been convicted of or received a grant of deferred adjudication for certain offenses involving animal cruelty; providing a criminal penalty.

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. ANIMAL CRUELTY REGISTRATION PROGRAM

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

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

(2) "Local law enforcement authority" and "penal institution" have the meanings assigned by Article 62.001.

Art. 61A.02. CENTRAL DATABASE; PUBLIC INFORMATION. (a) To the extent that funding is available under Article 61A.07, the department shall establish and maintain a computerized central database containing information regarding persons who:

(1) have been convicted of or received a grant of deferred adjudication for one or more felony offenses under Section 42.092 or 42.10, Penal Code; and

(2) were 17 years of age or older at the time of the offense.

(b) If a computerized central database is established by the

1 department under Subsection (a), a person described by that
2 subsection shall register as required by this chapter until the
3 10th anniversary of the date the person was last convicted of or
4 received a grant of deferred adjudication for an offense described
5 by Subsection (a)(1).

6 (c) The information contained in the database is public
7 information, with the exception of any information regarding the
8 person's social security number, driver's license number, or
9 telephone number.

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

12 (e) To the extent that funding is available under Article
13 61A.07, the department, in cooperation with the Board of Pardons
14 and Paroles, the Texas Department of Criminal Justice, and the
15 Commission on Jail Standards, by rule shall design and implement a
16 system for the registration of persons described by Subsection (a).
17 The system must establish requirements and procedures for:

18 (1) a person described by Subsection (a) to be
19 notified, before the person's discharge or release, of the person's
20 duty to register with a local law enforcement authority for the
21 period required by Subsection (b);

22 (2) the person to register or verify registration with
23 a local law enforcement authority:

24 (A) annually;

25 (B) every 90 days if the person is determined by
26 the department to be high-risk because of the person's status as a
27 repeat offender; or

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

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

6 (4) the database to track whether a person described
7 by Subsection (a) is in compliance with registration requirements
8 and, if the person is not in compliance, to make that information
9 available to other persons requesting the information;

10 (5) a local law enforcement authority to promptly
11 forward registration information to the department for use in the
12 database;

13 (6) the database to track whether a person described
14 by Subsection (a) is attending or is planning to attend a public or
15 private institution of higher education and, if so, the department
16 to promptly forward that information to the applicable institution
17 of higher education;

18 (7) the inclusion in the database and on the
19 department's Internet website of a recent photograph of the person,
20 updated annually; and

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

22 Art. 61A.03. INFORMATION PROVIDED TO PEACE OFFICER ON
23 REQUEST. The department shall establish a procedure by which a
24 peace officer or employee of a law enforcement agency who provides
25 the department with a driver's license number, personal
26 identification certificate number, or license plate number is
27 automatically provided information as to whether the person to whom

1 the driver's license or personal identification certificate is
2 issued is required to register under this chapter or whether the
3 license plate number is entered in the computerized central
4 database under Article 61A.02 as assigned to a vehicle owned or
5 driven by a person required to register under this chapter.

6 Art. 61A.04. IMMUNITY FOR RELEASE OF PUBLIC INFORMATION.

7 (a) The department, a penal institution, or a local law
8 enforcement authority may release to the public information
9 regarding a person required to register under this chapter only if
10 the information is public information under Article 61A.02(c).

11 (b) An individual, agency, entity, or authority is not
12 liable under Chapter 101, Civil Practice and Remedies Code, or any
13 other law for damages arising from conduct authorized by Subsection
14 (a).

15 (c) For purposes of determining liability, the release or
16 withholding of information by an appointed or elected officer of an
17 agency, entity, or authority is a discretionary act.

18 (d) A public or private institution of higher education or
19 administrator of a public or private institution of higher
20 education may release to the public information regarding a person
21 required to register under this chapter only if the information is
22 public information under Article 61A.02(c) and is released to the
23 administrator under Article 61A.02. A public or private
24 institution of higher education or administrator of a public or
25 private institution of higher education is not liable under any law
26 for damages arising from conduct authorized by this subsection.

27 Art. 61A.05. EXEMPTION FROM REGISTRATION FOR CERTAIN ANIMAL

1 CRUELTY OFFENDERS. (a) A person required to register under this
2 chapter may petition the court having jurisdiction over the case
3 for an order exempting the person from registration under this
4 chapter at any time after the person's sentencing or after the
5 person is placed on deferred adjudication.

6 (b) After a hearing on the petition described by Subsection
7 (a), the court may issue an order exempting the person from
8 registration under this chapter if the court finds that an
9 exemption would be in the best interest of justice.

10 (c) An order exempting the person from registration under
11 this chapter does not expire, except that the court may withdraw the
12 order if after the order is issued the person receives another
13 conviction or a grant of deferred adjudication for a misdemeanor or
14 felony offense under Section 42.092 or 42.10, Penal Code.

15 Art. 61A.06. FAILURE TO COMPLY WITH REGISTRATION
16 REQUIREMENTS. (a) A person commits an offense if the person is
17 required to register and fails to comply with any requirement of
18 this chapter.

19 (b) An offense under this article is a Class C misdemeanor.

20 Art. 61A.07. FUNDING. The department may solicit and
21 accept a gift, grant, or donation from any source, including a
22 foundation, private entity, governmental entity, or institution of
23 higher education, for the establishment and maintenance of the
24 computerized central database described by this chapter and the
25 implementation of a related system of registration under this
26 chapter. The department shall establish and maintain the database
27 and implement the registration system only if sufficient funds are

1 available under this article for those purposes.

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

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

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

11 (2) criminal history record information maintained by
12 the department that relates to the conviction of or a grant of
13 deferred adjudication to a person for any criminal offense,
14 including arrest information that relates to the conviction or
15 grant of deferred adjudication.

16 SECTION 3. (a) Chapter 61A, Code of Criminal Procedure, as
17 added by this Act, applies only to a person who is convicted of or
18 receives a grant of deferred adjudication for an offense committed
19 on or after the effective date of this Act. A person who is
20 convicted of or receives a grant of deferred adjudication for an
21 offense committed before the effective date of this Act is governed
22 by the law in effect on the date the offense was committed, and the
23 former law is continued in effect for that purpose. For purposes of
24 this subsection, an offense was committed before the effective date
25 of this Act if any element of the offense occurred before that date.

26 (b) As soon as practicable after sufficient funding becomes
27 available under Article 61A.07, Code of Criminal Procedure, as

1 added by this Act:

2 (1) the Department of Public Safety of the State of
3 Texas shall establish the requirements and procedures required by
4 Subsection (e), Article 61A.02, and Article 61A.03, Code of
5 Criminal Procedure, as added by this Act; and

6 (2) the central database required by Chapter 61A, Code
7 of Criminal Procedure, as added by this Act, must be designed and
8 implemented.

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, 2011.