

1-1 By: Whitmire S.B. No. 779
1-2 (In the Senate - Filed February 18, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 28, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; March 28, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 779 By: Whitmire

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

1-10 relating to a central database containing information about certain
1-11 persons who have been convicted of or received a grant of deferred
1-12 adjudication for certain offenses involving animal cruelty;
1-13 providing a criminal penalty.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Title 1, Code of Criminal Procedure, is amended
1-16 by adding Chapter 61A to read as follows:

1-17 CHAPTER 61A. ANIMAL CRUELTY REGISTRATION PROGRAM

1-18 Art. 61A.01. DEFINITIONS. In this chapter:

1-19 (1) "Department" means the Department of Public Safety
1-20 of the State of Texas.

1-21 (2) "Local law enforcement authority" and "penal
1-22 institution" have the meanings assigned by Article 62.001.

1-23 Art. 61A.02. CENTRAL DATABASE; PUBLIC INFORMATION. (a) To
1-24 the extent that funding is available under Article 61A.07, the
1-25 department shall establish and maintain a computerized central
1-26 database containing information regarding persons who:

1-27 (1) have been convicted of or received a grant of
1-28 deferred adjudication for one or more felony offenses under Section
1-29 42.092 or 42.10, Penal Code; and

1-30 (2) were 17 years of age or older at the time of the
1-31 offense.

1-32 (b) If a computerized central database is established by the
1-33 department under Subsection (a), a person described by that
1-34 subsection shall register as required by this chapter until the
1-35 10th anniversary of the date the person was last convicted of or
1-36 received a grant of deferred adjudication for an offense described
1-37 by Subsection (a)(1).

1-38 (c) The information contained in the database is public
1-39 information, with the exception of any information regarding the
1-40 person's social security number, driver's license number, or
1-41 telephone number.

1-42 (d) The department shall publish on its Internet website all
1-43 public information contained in the database.

1-44 (e) To the extent that funding is available under Article
1-45 61A.07, the department, in cooperation with the Board of Pardons
1-46 and Paroles, the Texas Department of Criminal Justice, and the
1-47 Commission on Jail Standards, by rule shall design and implement a
1-48 system for the registration of persons described by Subsection (a).
1-49 The system must establish requirements and procedures for:

1-50 (1) a person described by Subsection (a) to be
1-51 notified, before the person's discharge or release, of the person's
1-52 duty to register with a local law enforcement authority for the
1-53 period required by Subsection (b);

1-54 (2) the person to register or verify registration with
1-55 a local law enforcement authority:

1-56 (A) annually;

1-57 (B) every 90 days if the person is determined by
1-58 the department to be high-risk because of the person's status as a
1-59 repeat offender; or

1-60 (C) every 30 days if the person does not have a
1-61 permanent address;

1-62 (3) the person to register with a local law
1-63 enforcement authority not later than five days after the date the

2-1 person changes address;

2-2 (4) the database to track whether a person described
 2-3 by Subsection (a) is in compliance with registration requirements
 2-4 and, if the person is not in compliance, to make that information
 2-5 available to other persons requesting the information;

2-6 (5) a local law enforcement authority to promptly
 2-7 forward registration information to the department for use in the
 2-8 database;

2-9 (6) the database to track whether a person described
 2-10 by Subsection (a) is attending or is planning to attend a public or
 2-11 private institution of higher education and, if so, the department
 2-12 to promptly forward that information to the applicable institution
 2-13 of higher education;

2-14 (7) the inclusion in the database and on the
 2-15 department's Internet website of a recent photograph of the person,
 2-16 updated annually; and

2-17 (8) the department to update the database daily.

2-18 Art. 61A.03. INFORMATION PROVIDED TO PEACE OFFICER ON
 2-19 REQUEST. The department shall establish a procedure by which a
 2-20 peace officer or employee of a law enforcement agency who provides
 2-21 the department with a driver's license number, personal
 2-22 identification certificate number, or license plate number is
 2-23 automatically provided information as to whether the person to whom
 2-24 the driver's license or personal identification certificate is
 2-25 issued is required to register under this chapter or whether the
 2-26 license plate number is entered in the computerized central
 2-27 database under Article 61A.02 as assigned to a vehicle owned or
 2-28 driven by a person required to register under this chapter.

2-29 Art. 61A.04. IMMUNITY FOR RELEASE OF PUBLIC INFORMATION.

2-30 (a) The department, a penal institution, or a local law
 2-31 enforcement authority may release to the public information
 2-32 regarding a person required to register under this chapter only if
 2-33 the information is public information under Article 61A.02(c).

2-34 (b) An individual, agency, entity, or authority is not
 2-35 liable under Chapter 101, Civil Practice and Remedies Code, or any
 2-36 other law for damages arising from conduct authorized by Subsection
 2-37 (a).

2-38 (c) For purposes of determining liability, the release or
 2-39 withholding of information by an appointed or elected officer of an
 2-40 agency, entity, or authority is a discretionary act.

2-41 (d) A public or private institution of higher education or
 2-42 administrator of a public or private institution of higher
 2-43 education may release to the public information regarding a person
 2-44 required to register under this chapter only if the information is
 2-45 public information under Article 61A.02(c) and is released to the
 2-46 administrator under Article 61A.02. A public or private
 2-47 institution of higher education or administrator of a public or
 2-48 private institution of higher education is not liable under any law
 2-49 for damages arising from conduct authorized by this subsection.

2-50 Art. 61A.05. EXEMPTION FROM REGISTRATION FOR CERTAIN ANIMAL
 2-51 CRUELTY OFFENDERS. (a) A person required to register under this
 2-52 chapter may petition the court having jurisdiction over the case
 2-53 for an order exempting the person from registration under this
 2-54 chapter at any time after the person's sentencing or after the
 2-55 person is placed on deferred adjudication.

2-56 (b) After a hearing on the petition described by Subsection
 2-57 (a), the court may issue an order exempting the person from
 2-58 registration under this chapter if the court finds that an
 2-59 exemption would be in the best interest of justice.

2-60 (c) An order exempting the person from registration under
 2-61 this chapter does not expire, except that the court may withdraw the
 2-62 order if after the order is issued the person receives another
 2-63 conviction or a grant of deferred adjudication for a misdemeanor or
 2-64 felony offense under Section 42.092 or 42.10, Penal Code.

2-65 Art. 61A.06. FAILURE TO COMPLY WITH REGISTRATION
 2-66 REQUIREMENTS. (a) A person commits an offense if the person is
 2-67 required to register and fails to comply with any requirement of
 2-68 this chapter.

2-69 (b) An offense under this article is a Class C misdemeanor.

3-1 Art. 61A.07. FUNDING. The department may solicit and
3-2 accept a gift, grant, or donation from any source, including a
3-3 foundation, private entity, governmental entity, or institution of
3-4 higher education, for the establishment and maintenance of the
3-5 computerized central database described by this chapter and the
3-6 implementation of a related system of registration under this
3-7 chapter. The department shall establish and maintain the database
3-8 and implement the registration system only if sufficient funds are
3-9 available under this article for those purposes.

3-10 SECTION 2. Subsection (a), Section 411.135, Government
3-11 Code, is amended to read as follows:

3-12 (a) Any person is entitled to obtain from the department:
3-13 (1) any information described as public information
3-14 under Chapter 61A or 62, Code of Criminal Procedure, [~~as added by~~
3-15 ~~Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,~~]
3-16 including, to the extent available, a recent photograph of each
3-17 person subject to registration under Chapter 61A or 62 [~~that~~
3-18 ~~chapter~~]; and

3-19 (2) criminal history record information maintained by
3-20 the department that relates to the conviction of or a grant of
3-21 deferred adjudication to a person for any criminal offense,
3-22 including arrest information that relates to the conviction or
3-23 grant of deferred adjudication.

3-24 SECTION 3. (a) Chapter 61A, Code of Criminal Procedure, as
3-25 added by this Act, applies only to a person who is convicted of or
3-26 receives a grant of deferred adjudication for an offense committed
3-27 on or after the effective date of this Act. A person who is
3-28 convicted of or receives a grant of deferred adjudication for an
3-29 offense committed before the effective date of this Act is governed
3-30 by the law in effect on the date the offense was committed, and the
3-31 former law is continued in effect for that purpose. For purposes of
3-32 this subsection, an offense was committed before the effective date
3-33 of this Act if any element of the offense occurred before that date.

3-34 (b) As soon as practicable after sufficient funding becomes
3-35 available under Article 61A.07, Code of Criminal Procedure, as
3-36 added by this Act:

3-37 (1) the Department of Public Safety of the State of
3-38 Texas shall establish the requirements and procedures required by
3-39 Subsection (e), Article 61A.02, and Article 61A.03, Code of
3-40 Criminal Procedure, as added by this Act; and

3-41 (2) the central database required by Chapter 61A, Code
3-42 of Criminal Procedure, as added by this Act, must be designed and
3-43 implemented.

3-44 SECTION 4. This Act takes effect immediately if it receives
3-45 a vote of two-thirds of all the members elected to each house, as
3-46 provided by Section 39, Article III, Texas Constitution. If this
3-47 Act does not receive the vote necessary for immediate effect, this
3-48 Act takes effect September 1, 2011.

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