

BILL ANALYSIS

Senate Research Center

S.B. 742
By: Carona
Criminal Justice
7/25/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2012, 46,831 children were reported missing in Texas; the majority of these missing children cases were the result of family abductions or runaways. Children who have been reported missing multiple times, and/or have run away multiple times, exemplify the type of high-risk behavior that human traffickers target.

Texas law enforcement currently uses an established National Crime Information Center database for reporting missing children; however, there is no single unified process that exists to allow law enforcement in different jurisdictions to submit reports of attempted child abductions or to report or document the activity of habitual runaways.

In order to better protect those populations at an enhanced risk for human trafficking, such as child abductees and habitual runaways, S.B. 742 seeks to provide law enforcement with the tools to track attempted child abductions and to better identify habitual, high-risk runaways. Specifically, S.B. 742 creates a statewide, uniform system for reporting attempted child abductions and habitual, high-risk runaway cases to law enforcement. S.B. 742 also grants the Department of Public Safety of the State of Texas (DPS) the authority to award a grant to a nonprofit in order to assist in the recovery of missing children and habitual runaways. Furthermore, this bill requires at least four hours of training regarding attempted child abductions, missing children, or missing person cases for newly licensed law enforcement officers or existing officers wishing to gain a higher proficiency certification. Lastly, S.B. 742 instructs DPS and the Texas Commission on Law Enforcement Officer Standards and Education to adopt the rules necessary to implement reporting and training requirements.

S.B. 742 amends current law relating to reports of missing children, missing persons, or attempted child abductions and to education and training for peace officers regarding missing or exploited children.

[**Note:** While the statutory reference in this bill is to the Commission on Law Enforcement Officer Standards and Education (TCLEOSE), the following amendments affect the Texas Commission on Law Enforcement, as the successor agency to TCLEOSE (effective January 1, 2014).]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the public safety director of the Department of Public Safety of the State of Texas in SECTION 6 (Article 63.0091, Code of Criminal Procedure) and SECTION 10 of this bill.

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 8 (Section 411.0133, Government Code) and SECTION 10 of this bill.

Rulemaking authority is expressly granted to the Commission on Law Enforcement Officer Standards and Education in SECTION 9 (Section 1701.402, Occupations Code) and SECTION 10 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 63.001, Code of Criminal Procedure, by amending Subdivisions (1) and (5) and adding Subdivision (1-a), to define "abduct," to delete the existing definition of "report," and to make a nonsubstantive change.

SECTION 2. Amends Subchapter A, Chapter 63, Code of Criminal Procedure, by adding Article 63.0016, as follows:

Art. 63.0016. ATTEMPTED CHILD ABDUCTION BY RELATIVE. Provides that, for purposes of this chapter, "attempted child abduction" does not include an attempted abduction in which the actor was a relative, as defined by Section 20.01 (Definitions), Penal Code, of the person intended to be abducted.

SECTION 3. Amends Article 63.003, Code of Criminal Procedure, as follows:

Art. 63.003. FUNCTION OF CLEARINGHOUSE. (a) Provides that the missing children and missing persons information clearinghouse (clearinghouse) is a central repository of information on missing children, missing persons, and attempted child abductions.

(b) Requires the clearinghouse, among other requirements, to receive and maintain information on attempted child abductions in this state. Makes a nonsubstantive change.

SECTION 4. Amends Subchapter A, Chapter 63, Code of Criminal Procedure, by adding Article 63.0041, as follows:

Art. 63.0041. REPORTING OF ATTEMPTED CHILD ABDUCTION. Requires a law enforcement officer or local law enforcement agency reporting an attempted child abduction to the clearinghouse to make the report by use of the Texas Law Enforcement Telecommunications System or a successor system of telecommunication used by law enforcement agencies and operated by the Department of Public Safety of the State of Texas (DPS).

SECTION 5. Amends Article 63.009, Code of Criminal Procedure, by adding Subsection (a-1), as follows:

(a-1) Requires a local law enforcement agency, on receiving a report of an attempted child abduction, to immediately, but not later than eight hours after receiving the report, provide any relevant information regarding the attempted child abduction to the clearinghouse.

SECTION 6. Amends Subchapter A, Chapter 63, Code of Criminal Procedure, by adding Article 63.0091, as follows:

Art. 63.0091. LAW ENFORCEMENT REQUIREMENTS REGARDING REPORTS OF CERTAIN MISSING CHILDREN. (a) Requires the public safety director of DPS to adopt rules regarding the procedures for a local law enforcement agency on receiving a report of a missing child who had been reported missing on four or more occasions in the 24-month period preceding the date of the current report or is in foster care or in the conservatorship of the Department of Family and Protective Services and had been reported missing on two or more occasions in the 24-month period preceding the date of the current report.

(b) Requires that the rules adopted under this article require that in entering information regarding the report into the national crime information center missing person file as required by Article 63.009(a)(3) (relating to requiring local law enforcement agencies, on receiving a report of a missing child or a missing person, to immediately, but not later than two hours after receiving the report,

enter certain information into the clearinghouse, the national crime information center missing person file if the child or person meets the center's criteria, and the Alzheimer's Association Safe Return crisis number, if applicable) for a missing child described by Subsection (a), the local law enforcement agency is required to indicate, in the manner specified in the rules, that the child is endangered and include relevant information regarding the prior occasions on which the child was reported missing.

(c) Requires that information required by Subsection (b) be added to the entry promptly after the agency investigating the report determines that the missing child is described by Subsection (a) if, at the time the initial entry into the national crime information center missing person file is made, the local law enforcement agency has not determined that the requirements of this article apply to the report of the missing child.

SECTION 7. Amends Article 63.013, Code of Criminal Procedure, to require each law enforcement agency to provide to the clearinghouse certain information, including any information regarding an attempted child abduction that has been reported to the agency or that the agency has received from any person or another agency.

SECTION 8. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0133, as follows:

Sec. 411.0133. MISSING OR EXPLOITED CHILDREN PREVENTION GRANTS. (a) Defines "nonprofit organization" in this section.

(b) Provides that this section applies to a nonprofit organization that is formed to offer programs and provide information to parents or other legal custodians, children, schools, public officials, organizations serving youths, nonprofit organizations, and the general public concerning child safety and Internet safety and the prevention of child abductions and child sexual exploitation.

(c) Authorizes DPS to award a grant to a nonprofit organization described by Subsection (b) that is operating in this state to provide programs and information described by that subsection to assist DPS in the performance of DPS's duties related to missing or exploited children, including any duty related to the clearinghouse under Chapter 63 (Missing Children and Missing Persons), Code of Criminal Procedure.

(d) Authorizes DPS to adopt rules to implement this section.

SECTION 9. Amends Section 1701.402, Occupations Code, by adding Subsection (k), as follows:

(k) Requires an officer to complete the education and training program on missing and exploited children as a requirement for an intermediate or advanced proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education (TCLEOSE) on or after January 1, 2015. Requires TCLEOSE by rule to establish the program. Requires that the program consist of at least four hours of training; include instruction on reporting an attempted child abduction to the clearinghouse under Chapter 63, Code of Criminal Procedure; include instruction on responding to and investigating situations in which the Internet is used to commit crimes against children; and include a review of the substance of Chapters 20 (Kidnapping, Unlawful Restraint, and Smuggling of Persons) and 43 (Public Indecency), Penal Code.

SECTION 10. Provides that not later than January 1, 2014:

(1) TCLEOSE is required to adopt the rules necessary to implement Section 1701.402(k), Occupations Code, as added by this Act; and

(2) DPS and the public safety director of DPS are required to adopt rules and forms necessary to implement Chapter 63, Code of Criminal Procedure, as amended by this Act.

SECTION 11. (a) Provides that the change in law made by this Act in adding Article 63.0091, Code of Criminal Procedure, applies to a missing child report that is received by a law enforcement agency on or after January 1, 2014.

(b) Provides that the change in law made by this Act in adding Article 63.009(a-1), Code of Criminal Procedure, and amending Article 63.013, Code of Criminal Procedure, applies to an attempted child abduction that is reported to a law enforcement agency on or after January 1, 2014.

SECTION 12. Effective date: September 1, 2013.