

By: Martinez Fischer, Villalba, Lucio III

H.B. No. 21

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a central database containing information about
3 offenders who have committed certain offenses against children or
4 offenses involving family or dating violence.

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

6 SECTION 1. Article 42.015, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 42.015. FINDING OF AGE OF VICTIM. In the trial of an
9 offense under Title 5 [~~Section 20.02, 20.03, or 20.04~~], Penal Code,
10 or an attempt, conspiracy, or solicitation to commit one of those
11 offenses, the judge shall make an affirmative finding of fact and
12 enter the affirmative finding in the judgment in the case if the
13 judge determines that the victim or intended victim was younger
14 than 17 years of age at the time of the offense.

15 SECTION 2. Section 411.088(b), Government Code, is amended
16 to read as follows:

17 (b) The department may not charge for processing an
18 electronic inquiry, made through the use of the Internet, for
19 information described as public information under:

20 (1) Section 411.1355; or

21 (2) Article 62.005, Code of Criminal Procedure [~~made~~
22 ~~through the use of the Internet~~].

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

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

2 (1) any information described as public information
3 under Chapter 62, Code of Criminal Procedure, [~~as added by Chapter~~
4 ~~668, Acts of the 75th Legislature, Regular Session, 1997,~~]
5 including, to the extent available, a recent photograph of each
6 person subject to registration under that chapter; [~~and~~]

7 (2) criminal history record information maintained by
8 the department that relates to the conviction of or a grant of
9 deferred adjudication to a person for any criminal offense,
10 including arrest information that relates to the conviction or
11 grant of deferred adjudication; and

12 (3) any information described as public information
13 under Section 411.1355.

14 SECTION 4. Subchapter F, Chapter 411, Government Code, is
15 amended by adding Section 411.1355 to read as follows:

16 Sec. 411.1355. CENTRAL DATABASE OF OFFENDERS WHO HAVE
17 COMMITTED OFFENSES INVOLVING FAMILY VIOLENCE. (a) The department
18 shall maintain a computerized central database containing
19 information regarding persons who:

20 (1) on three or more occasions have been convicted of
21 an offense for which an affirmative finding was made under Article
22 42.013 or 42.015, Code of Criminal Procedure, the most recent of
23 which was an offense under:

24 (A) Section 22.01, Penal Code, for which the
25 punishment was enhanced because the offense was committed against a
26 person whose relationship to or association with the defendant is
27 described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

1 (B) Section 25.11, Penal Code; and

2 (2) were 17 years of age or older on the date at least
3 three of the offenses described by Subdivision (1) were committed.

4 (b) The information contained in the database is public
5 information, with the exception of any information:

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

8 (2) that would identify the victim of the offense with
9 respect to which the affirmative finding was made.

10 (c) The database maintained by the department under this
11 section must contain, to the extent the information is available to
12 the department:

13 (1) the person's full name, each alias used by the
14 person, and the person's date of birth;

15 (2) a physical description and recent photograph of
16 the person;

17 (3) a list of offenses for which the person was
18 convicted and for which the court made an affirmative finding of
19 family violence, the date of conviction for each offense, and the
20 punishment prescribed for each offense; and

21 (4) an indication as to whether the person was
22 discharged, placed on community supervision, or released on parole
23 or to mandatory supervision following the conviction for each
24 offense.

25 (d) The department shall permit a person whose name is
26 included in the database established under this section to petition
27 the department for removal of the person's name from the database,

1 and the department shall remove the person's name from the database
2 in response to the petition if:

3 (1) an order of expunction is issued under Chapter 55,
4 Code of Criminal Procedure, with respect to one of the offenses
5 described by Subsection (a), unless the person has three or more
6 other convictions for an offense described by that subsection; or

7 (2) during the seven-year period preceding the date of
8 the petition, the person is not convicted of an offense described by
9 Subsection (a).

10 (e) On the website through which a person may search the
11 database described by this section, the department shall include
12 information regarding:

13 (1) the manner in which a person may petition the
14 department for removal of the person's name from the database;

15 (2) the circumstances under which the department will
16 grant the petition; and

17 (3) contact information for family violence
18 organizations.

19 (f) The department shall consult with a representative of a
20 statewide advocacy organization for issues related to family
21 violence regarding implementation of the database and the
22 information required to be included on the database website under
23 Subsection (e)(3).

24 SECTION 5. The central database required by Section
25 411.1355, Government Code, as added by this Act, must be designed
26 and implemented not later than January 1, 2014, and may only include
27 information concerning persons convicted of at least one offense

1 committed on or after the effective date of this Act for which an
2 affirmative finding of family violence is made under Article 42.013
3 or 42.015, Code of Criminal Procedure. For purposes of this
4 section, an offense was committed on or after the effective date of
5 this Act if each element of the offense occurred on or after that
6 date.

7 SECTION 6. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2013.