

BILL ANALYSIS

C.S.H.B. 1525
By: Farrar
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that too many family violence incidents happen in Texas and that their rate may be increasing. The parties contend that a report related to offenses involving family violence would provide important information to the public. C.S.H.B. 1525 seeks to increase the availability of information relating to family violence offenses.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1525 amends the Government Code to require the Department of Public Safety (DPS) to compile and maintain certain statistical information on offenses involving family violence. The bill requires DPS to identify by rule the governmental entities that possess such information and requires such an identified governmental entity to report the information to DPS in the manner prescribed by DPS. The bill requires DPS to identify governmental entities required to report that information to DPS that fail to timely report or that report incomplete information to DPS. The bill requires DPS, not later than February 15 of each year, to submit to the legislature and to post on DPS's website a report of the statistical information on offenses involving family violence that was compiled for the preceding calendar year and requires the report to include a list of the governmental entities identified by DPS that are required to report to DPS but have either failed to timely report or have reported incomplete information. The bill requires DPS to submit its initial report not later than February 15, 2017. The bill authorizes DPS to adopt rules as necessary to implement the bill's provisions relating to DPS's report on offenses involving family violence and authorizes DPS, in adopting such rules, to consult with a statewide family violence advocacy organization and a statewide sexual assault advocacy organization.

C.S.H.B. 1525 specifies that the offenses in which family violence was involved, of which the bureau of identification and records in the administrative division of DPS is required to collect certain information enabling the bureau to create a statistical breakdown, include offenses for which an affirmative finding of family violence was made by the appropriate court; the offense of violating certain court orders or conditions of bond in a family violence, sexual assault or abuse, or stalking case, or the offense of repeatedly violating certain court orders or conditions of bond in a family violence case, if either offense is based on a violation of an order or a condition of bond in a case involving family violence; and the offense of continuous violence against the family. The bill requires the information collected by the bureau to perform a statistical

breakdown of offenses in which family violence was involved, of sexual assault offenses, and of aggravated sexual assault offenses to include, among other information, information regarding whether the victim died as a result of the offense and regarding the law enforcement agency or other governmental entity that reported the offense to DPS. The bill adds offenses in which family violence was involved to the offenses a law enforcement agency is required to report to DPS in the form and manner and at regular intervals as prescribed by rules adopted by DPS. The bill's provisions relating to the collection of information by the bureau of identification and records apply beginning January 1, 2017.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1525 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 411.088(b), Government Code, is amended to read as follows:

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

(1) Section 411.1355; or

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

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

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

(1) any information described as public information under Chapter 62, Code of Criminal Procedure, including, to the extent available, a recent photograph of each person subject to registration under that chapter; ~~and~~

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

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

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 3. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1355 to read as follows:

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

(1) on three or more occasions have been convicted of an offense for which an affirmative finding of family violence was made under Article 42.013, Code of Criminal Procedure; and

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

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

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

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

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

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

(2) the person's last known address;

(3) a physical description and recent photograph of the person;

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

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

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

in response to the petition if:

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

(2) during the 10-year period preceding the date of the petition, the person is not convicted of an offense described by Subsection (a).

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

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

(2) the circumstances under which the department will grant the petition.

SECTION 4. The central database required by Section 411.1355, Government Code, as added by this Act, must be designed and implemented not later than January 1, 2016, and may only include information concerning persons convicted of at least one offense committed on or after the effective date of this Act for which an affirmative finding of family violence is made under Article 42.013, Code of Criminal Procedure. For purposes of this section, an offense was committed on or after the effective date of this Act if each element of the offense occurred on or after that date.

No equivalent provision.

No equivalent provision.

SECTION 1. Sections 411.042(b), (h), and (i), Government Code, are amended to read as follows:

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in

the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of:

(A) offenses in which family violence was involved, including offenses:

(i) for which an affirmative finding of family violence was made under Article 42.013, Code of Criminal Procedure;

(ii) under Section 25.07 or 25.072, Penal Code, if the offense is based on a violation of an order or a condition of bond in a case involving family violence; and

(iii) under Section 25.11, Penal Code;

(B) offenses under Sections 22.011 and 22.021, Penal Code; and

(C) offenses under Sections 20A.02 and 43.05, Penal Code;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense;

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders, including pertinent information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, or stalking case. Information in the law enforcement information system relating to an active protective order shall include:

(A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C) the name and county of residence of the person protected by the order;

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code;

(F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed;

(G) the conditions of bond imposed on the person to whom the order is directed, if any, for the protection of a victim in any family violence, sexual assault or abuse, or stalking case; and

(H) the date the order expires;

(7) grant access to criminal history record information in the manner authorized under Subchapter F;

(8) collect and disseminate information regarding offenders with mental impairments in compliance with Chapter 614, Health and Safety Code; and

(9) record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system that serves:

(A) as the record creation point for criminal history record information and juvenile justice information maintained by the state; and

(B) as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

(h) Information collected to perform a statistical breakdown of offenses in which family violence was involved and offenses under Sections 22.011 and 22.021, Penal Code, as required by Subsection (b)(2) must include information indicating the specific offense committed and information regarding:

(1) each ~~the~~ victim;

(2) the offender and the offender's relationship to each ~~the~~ victim;

(3) any weapons used or exhibited in the commission of the offense; ~~and~~

(4) any injuries sustained by each ~~the~~

victim, including whether the victim died as a result of the offense; and
(5) the law enforcement agency or other governmental entity that reported the offense to the department.

(i) A law enforcement agency shall report offenses in which family violence was involved and offenses under Section 22.011 or 22.021, Penal Code, to the department in the form and manner and at regular intervals as prescribed by rules adopted by the department. The report must include the information described by Subsection (h).

No equivalent provision.

SECTION 2. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.0491 to read as follows:

Sec. 411.0491. REPORT RELATED TO CERTAIN OFFENSES INVOLVING FAMILY VIOLENCE. (a) In this section, "offense involving family violence" means an offense:

(1) for which an affirmative finding of family violence was made under Article 42.013, Code of Criminal Procedure;

(2) under Section 25.07, Penal Code (Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case), or Section 25.072, Penal Code (Repeated Violation of Certain Court Orders or Conditions of Bond in Family Violence Case), if the offense is based on a violation of an order or a condition of bond in a case involving family violence; or

(3) under Section 25.11, Penal Code (Continuous Violence Against the Family).

(b) The department shall compile and maintain statistical information on offenses involving family violence, including:

(1) the number of convictions, disaggregated by offense; and

(2) the number of convictions of offenders who had been previously convicted of an offense involving family violence.

(c) The department by rule shall identify the governmental entities that possess information required by Subsection (b). A governmental entity identified by the department under this subsection shall report the information to the department in the manner prescribed by the department.

(d) The department shall identify governmental entities required to report

under Subsection (c) that fail to timely report or that report incomplete information to the department.

(e) Not later than February 15 of each year, the department shall submit to the legislature and post on the department's Internet website a report of the statistical information described in Subsection (b) that was compiled for the preceding calendar year. The report must include a list of the governmental entities identified by the department under Subsection (d).

(f) The department may adopt rules as necessary to implement this section. In adopting rules under this subsection, the department may consult with a statewide family violence advocacy organization and a statewide sexual assault advocacy organization.

No equivalent provision.

SECTION 3. (a) The changes in law made by this Act to Section 411.042, Government Code, apply beginning January 1, 2017.

(b) Notwithstanding Section 411.0491(e), Government Code, as added by this Act, the Department of Public Safety is required to submit the initial report required by that section not later than February 15, 2017.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 4. Same as introduced version.