

## **BILL ANALYSIS**

C.S.H.B. 3671  
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Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The National Instant Criminal Background Check System (NICS) is an FBI-run national system that checks available records on people who may be disqualified from purchasing firearms. The NICS looks for anything that would disqualify a person from purchasing or possessing a firearm, such as a history of criminal or mental health issues, domestic violence convictions, unlawful immigration status, dishonorable military discharges, or drug use. Currently, there are clear laws requiring clerks of the court to forward records of mental health disqualifications to the Department of Public Safety (DPS), which then supplies the information to the FBI for inclusion in the NICS. It has been suggested that the state needs to do more to ensure that pertinent information about protective orders and family violence convictions is also being entered into the NICS. C.S.H.B. 3671 seeks to clarify law enforcement reporting requirements and ensure that DPS provides relevant information to the FBI in a timely manner.

### **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3671 amends the Code of Criminal Procedure to require a conviction for an offense involving family violence that would prohibit a person from possessing a firearm under state or federal law to be reported to the Department of Public Safety (DPS) not later than the fifth calendar day after the date the judgment of conviction is entered. The bill includes in Code of Criminal Procedure provisions relating to a stalking protective order or a protective order for victims of sexual assault or abuse, stalking, or trafficking of persons the requirement established by applicable provisions of the Family Code for a law enforcement agency, immediately on receipt of such an order but not later than the third business day after the date of receipt, to enter all requisite information about the order, the person to whom the order is directed, and the person protected by the order into the statewide law enforcement information system maintained by DPS.

C.S.H.B. 3671 amends the Government Code to require DPS to report each protective order and each conviction for a family violence misdemeanor to the FBI for use with the National Instant Criminal Background Check System not later than the fifth calendar day after the date DPS receives information that the protective order or judgment of conviction was entered. The bill defines "protective order" and "family violence misdemeanor" by reference to federal law for purposes of this requirement.

## **EFFECTIVE DATE**

September 1, 2021.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3671 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While the original set the deadline for reporting an applicable conviction for a family violence offense to DPS on the seventh calendar day after the date the judgment of conviction is entered, the substitute changes that deadline to the fifth calendar day after the date the judgment of conviction is entered. Similarly, the substitute changes the deadline provided by the original by which DPS must report each such conviction and each protective order for a family violence misdemeanor to the FBI from the seventh calendar day after the date DPS receives information that the order or judgment was entered to the fifth calendar day after that date. For purposes of DPS reporting to the FBI, the substitute defines "family violence misdemeanor" and "protective order" by reference to federal law, whereas the original defined "family violence" and "protective order" by reference to state law.