

BILL ANALYSIS

Senate Research Center
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H.B. 5202
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to Texas Advocacy Project's 2021 Annual Report, at least one in three Texans will experience domestic violence in their lifetime. Intimate partner violence also poses a serious risk for Texans. Intimate partner violence is abuse or aggression that occurs in romantic relationships. According to an analysis conducted by the Texas Council on Family Violence, 204 Texans were murdered by their intimate partners in 2021.

It is essential for the state to address the increasingly high rates of intimate partner violence.

H.B. 5202 will require the Department of Public Safety of the State of Texas (DPS) to maintain a central database of offenders who have committed certain violence offenses, including offenses for which an affirmative finding of family violence was made, and requires DPS to respond to database related public information requests.

Specifically, the computerized central database will contain information regarding offenders who on two or more occasions have been convicted of any of the following offenses:

- assault, sexual assault, aggravated assault, or aggravated sexual assault for which an affirmative finding of family violence was made;
- continuous violence against the family or stalking; or
- any combination of such offenses.

The database must contain the following information, to the extent it is available to DPS:

- the person's full name, each alias used by the person, and the person's date of birth;
- a physical description and recent photograph of the person;
- a list of the applicable offenses of which the person was convicted, the date of conviction of each offense, and the punishment prescribed for each offense; and
- an indication as to whether the person was discharged, placed on community supervision, or released on parole or to mandatory supervision following conviction of each offense.

Any information contained in the database is public information except for any information regarding the person's social security number, driver's license number, or telephone number or that would identify the victim of the offense.

H.B. 5202 amends current law relating to a central database containing information about offenders who have committed certain violent offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.088(b), Government Code, to prohibit the Department of Public Safety of the State of Texas (DPS) from charging for processing an electronic inquiry, made through the use of the Internet, for information described as public information under Section 411.1355. Makes a nonsubstantive change.

SECTION 2. Amends Section 411.135(a), Government Code, to provide that any person is entitled to obtain from DPS any information described as public information under Section 411.1355.

SECTION 3. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1355, as follows:

Sec. 411.1355. CENTRAL DATABASE OF OFFENDERS WHO HAVE COMMITTED CERTAIN VIOLENT OFFENSES. (a) Requires DPS to maintain a computerized central database containing information regarding persons who on two or more occasions have been convicted of:

(1) an offense under Article 42.013 (Finding of Family Violence), Code of Criminal Procedure for which an affirmative finding was made;

(2) an offense under Section 25.11 (Continuous Violence Against the Family) or 42.072 (Stalking), Penal Code; or

(3) any combination of offenses described by Subdivision (1) or (2).

(b) Provides that 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.

(c) Requires that the database maintained by DPS under this section contain, to the extent the information is available to DPS:

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

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

(3) a list of offenses described by Subsection (a) of which the person was convicted, the date of conviction of each offense, and the punishment prescribed for each offense; and

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

(d) Requires DPS to permit a person whose name is included in the database established under this section to petition DPS for removal of the person's name from the database, and requires DPS to remove the person's name from the database in response to the petition if:

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

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

(e) Requires DPS, on the Internet website through which a person is authorized to search the database described by this section, to include in a prominent location information regarding:

(1) the manner in which a person is authorized to petition DPS for removal of a person's name from the database, including any forms required by DPS for the petitions to be used for the purpose;

(2) the circumstances under which DPS will grant a petition; and

(3) contact information for family violence organizations.

(f) Requires DPS to consult with a representative of a statewide advocacy organization for issues related to family violence and victim safety regarding implementation of the database and the information required to be included on the database website under Subsection (e)(3).

SECTION 4. (a) Requires that the central database required by Section 411.1355, Government Code, as added by this Act, to be designed and implemented not later than January 1, 2024, and to include the information of offenders to which that section applies, regardless of whether the offenses were committed before, on, or after the effective date of this Act, subject to Subsection (b) of this section.

(b) Prohibits DPS from including information concerning a person convicted of two or more offenses described by Section 411.1355(a), Government Code, as added by this Act, that were committed before the effective date of this Act if on the date DPS implements the database DPS would be required to remove the person's name from the database under Subsection (d) of that section in response to a petition filed by the person under that subsection.

SECTION 5. Effective date: upon passage or September 1, 2023.