

BILL ANALYSIS

C.S.H.B. 5202
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to the Department of Public Safety (DPS), one in three Texans will experience domestic violence in their lifetime. Domestic violence or intimate partner violence is abuse or aggression that occurs in romantic relationships. Intimate partner violence poses a serious risk for Texans. According to an analysis conducted by the Texas Council on Family Violence, 204 Texans were killed by their intimate partners in 2021. C.S.H.B. 5202 seeks to address the high rates of intimate partner violence by requiring 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 requiring DPS to respond to requests for public information included in the database without charging a processing fee.

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. 5202 amends the Government Code to require the Department of Public Safety (DPS) to maintain a computerized central database, designed and implemented not later than January 1, 2024, containing 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 bill requires the database to contain the following information, to the extent the information 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.

The bill establishes that 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.

C.S.H.B. 5202 requires DPS to permit a person whose name is included in the database to petition DPS for removal of their name and requires DPS to remove the petitioner's name from the database in response to the petition if an order of expunction is issued with respect to one of the applicable offenses, unless the person has been convicted three or more times of an applicable offense, or if the person is not convicted of another applicable offense during the seven-year period preceding the date of the petition. The bill requires that the database include the information of all applicable offenders, regardless of whether the offenses were committed before, on, or after the bill's effective date, except that DPS may not include information concerning a person if their convictions were committed before the bill's effective date and, on the date DPS implements the database, DPS would be required to remove the person's name from the database in response to a petition filed by the person under the bill.

C.S.H.B. 5202 requires DPS, on the website through which a person may search the database, to include in a prominent location information regarding the manner in which a person may petition for removal of their name, including any forms required by DPS to be used for that purpose, the circumstances under which a petition will be granted, and contact information for family violence organizations. The bill 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 contact information for family violence organizations required to be included on the database website.

C.S.H.B. 5202 entitles any person to obtain any public information that is included in the database and prohibits DPS from charging for processing electronic inquiries for such information.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5202 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits the provision from the introduced that required a court to make an affirmative finding of intimate partner violence and enter that finding in the judgment of the case if it determines, in the trial of an offense against the person that is punishable as a state jail felony or any higher category of offense, that the offense was committed against a victim or intended victim who was the person's spouse, former spouse, or someone with whom the person has or had a dating relationship.

The substitute changes the criteria for the required inclusion of a person's information in the central database. Whereas the introduced required that the database contain information regarding persons who on two or more occasions have been convicted of an offense for which an affirmative finding of intimate partner violence has been made and who were 17 years of age or older on the date at least two of the offenses were committed, the substitute requires instead that the database contain information regarding a person who on two or more occasions has been convicted of any of the following offenses and does not specify the person's age:

- 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 substitute changes the bill's applicability provision from a provision limiting the information that may be included in the database to that which concerns persons convicted of at least one applicable offense committed on or after the bill's effective date, as in the introduced, to provisions requiring the database to include information on offenders regardless of whether the applicable offenses were committed before, on, or after the bill's effective date but also prohibiting DPS from including information on a person who committed applicable offenses before the bill's effective date if, on the date DPS implements the database, DPS would be required to remove such information from the database in response to a petition for removal. The substitute omits the provision in the introduced establishing that, for purposes of its applicability, an offense was committed on or after the bill's effective date if each element of the offense occurred on or after that date.