

## **BILL ANALYSIS**

S.B. 2201

By: Birdwell

Homeland Security, Public Safety & Veterans' Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that, with the rise of cartels and other organized criminal gangs throughout Texas and considering the tactics they utilize in their operations, the submission criteria for suspected gang members to a law enforcement intelligence database do not meet the needs of law enforcement agencies. The bill sponsor has further informed the committee that the rise of Tren de Aragua in particular has caused significant concern for all levels of law enforcement across the United States because the Venezuelan gang has been difficult to track. The bill sponsor has also informed the committee that amending the submission criteria for individuals reasonably suspected to be involved in criminal activity will grant law enforcement agencies new and additional information, better equipping law enforcement to dismantle cartels, gangs, and foreign terrorist organizations that threaten the safety of Texans. S.B. 2201 seeks to address this issue by revising current submission criteria to more closely align law enforcement operations with the evolving tactics of cartels and criminal street gangs and by revising data retention policies to ensure that an individual's data is removed from intelligence databases after five years unless new information is submitted that meets the bill's submission criteria to be included in those databases and that a child's data is removed after two years unless new information is submitted that meets the bill's submission criteria to be included in those databases.

### **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 1 of this bill.

### **ANALYSIS**

S.B. 2201 amends the Code of Criminal Procedure to require the Department of Public Safety (DPS) to develop and make available a minimum training course for access to and use of the intelligence database for combinations, criminal street gangs, and foreign terrorist organizations established by DPS under applicable state law. The bill requires a person to complete the minimum training course before the person may access and use the intelligence database. The bill requires DPS to adopt rules relating to the content of the training course and to develop and make available the training course not later than January 1, 2026. The bill establishes that a person who begins accessing the intelligence database maintained before January 1, 2026, is not required to take the minimum training course before January 1, 2027.

S.B. 2201 establishes that criminal information collected under statutory provisions relating to the compilation of information pertaining to combinations and criminal street gangs requires

reasonable suspicion to be included in an intelligence database. Reasonable suspicion is established when sufficient facts provide a trained law enforcement or criminal justice agency officer, investigator, or employee with a basis to believe there is a reasonable possibility that an individual or organization is involved in a definable criminal activity or enterprise. The bill revises the requirement for criminal information collected under those statutory provisions relating to a criminal street gang or foreign terrorist organization to include certain information as follows:

- with respect to the requirement for the information to consist of a self-admission by an individual of membership in a criminal street gang or foreign terrorist organization that is made during a judicial proceeding, removes the specification that the self-admission is made during a judicial proceeding;
- removes the requirement for the information to consist of the following:
  - a self-admission by the individual of membership in a criminal street gang or foreign terrorist organization that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang or foreign terrorist organization; or
  - a corroborated identification of the individual as a member of a criminal street gang or foreign terrorist organization by an informant or other individual of unknown reliability;
- with respect to the requirement for the information to consist of an identification of the individual as a member of a criminal street gang or foreign terrorist organization by a reliable informant or other individual, specifies that the identification of the individual as a member of such a gang or organization is by a documented criminal street gang member or foreign terrorist organization member or a family member and removes the specification the identification is by a reliable informant or other individual;
- with respect to the requirement for the information to consist of evidence that the individual frequents a documented area of a criminal street gang or foreign terrorist organization and associates with known members of a criminal street gang or foreign terrorist organization, does the following:
  - replaces the specification that the individual frequents a documented area of a criminal street gang or foreign terrorist organization with a specification that the individual frequents or is located at a previously documented area of such a gang or organization, including physical, digital, or online locations; and
  - removes the specification that the individual associates with known members of a criminal street gang or foreign terrorist organization;
- with respect to the requirement for the information to consist of evidence that the individual uses, in more than an incidental manner, criminal street gang or foreign terrorist organization dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by which the symbols are displayed, that are associated with a criminal street gang or foreign terrorist organization that operates in an area frequented by the individual, removes the specification that the criminal street gang or foreign terrorist organization operates in an area frequented by the individual;
- with respect to the requirement for the information to consist of evidence that the individual has been arrested or taken into custody with known members of a criminal street gang or foreign terrorist organization for an offense or conduct consistent with gang activity, includes as an alternative that the individual has been arrested or taken into custody with individuals who use, in more than an incidental manner, criminal street gang or foreign terrorist organization dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by which the symbols are displayed, that are associated with a criminal street gang or foreign terrorist organization;
- with respect to the requirement for the information to consist of evidence that the individual has visited a known member of a criminal street gang or foreign terrorist organization, other than a family member of the individual, while the member is confined

in or committed to a penal institution, replaces the specification that the individual has visited a known member of a criminal street gang or foreign terrorist organization, other than a family member of the individual, with a specification that the individual communicates, whether in person, in writing, or electronically, with a known member of such a gang or organization; and

- with respect to the requirement for the information to consist of evidence of the individual's use of technology, including the Internet, to recruit new members of a criminal street gang or foreign terrorist organization, specifies that the use of technology includes the individual's use of the Internet and social media to advertise the criminal street gang or foreign terrorist organization or to recruit new members of the gang or organization.

The bill requires a law enforcement officer's name and department to be included in the intelligence database with an individual's submitted information if the officer has reasonable suspicion that the individual is associated with a criminal street gang or foreign terrorist organization as a result of meeting the criteria to be included in the database.

S.B. 2201 repeals the provision establishing that the following evidence is not sufficient to create the eligibility of a person's information to be included in an intelligence database unless the evidence is combined with other applicable information:

- evidence that the individual frequents a documented area of a criminal street gang or foreign terrorist organization and associates with known members of a criminal street gang or foreign terrorist organization; and
- evidence that the individual has visited a known member of a criminal street gang or foreign terrorist organization, other than a family member of the individual, while the member is confined in or committed to a penal institution.

S.B. 2201 revises the requirement for information that is collected about an individual under statutory provisions relating to the compilation of information pertaining to combinations and criminal street gangs and that relates to a criminal street gang to be removed after five years from an intelligence database compiled by a criminal justice agency or juvenile justice agency and the intelligence database maintained by DPS under certain conditions as follows:

- removes the condition that the information relates to the investigation or prosecution of criminal activity engaged in by an individual other than a child;
- removes the condition that the individual who is the subject of the information has not been arrested for criminal activity reported to DPS under the criminal history record system; and
- establishes instead that the information is required to be removed unless new information is submitted that meets the bill's submission criteria to be included in those databases.

The bill repeals the provision establishing that the five-year period does not include any period during which the individual who is the subject of the information is confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ), committed to a secure correctional facility operated by or under contract with the Texas Juvenile Justice Department (TJJD), or confined in a county jail or confined in or committed to a facility operated by a juvenile board in lieu of being confined in a correctional facility operated by or under contract with TDCJ or committed to a secure correctional facility operated by or under contract with TJJD.

S.B. 2201 revises the requirement for information that is collected about a child under statutory provisions relating to the compilation of information pertaining to combinations and criminal street gangs and that relates to a criminal street gang to be removed after two years from an intelligence database compiled by a criminal justice agency or juvenile justice agency and the intelligence database maintained by DPS under certain conditions as follows:

- removes the condition that the information relates to the investigation or prosecution of criminal activity engaged in by a child;
- removes the condition that the child who is the subject of the information has not been arrested for criminal activity reported to DPS under the criminal history record system

or taken into custody for delinquent conduct reported to DPS under the juvenile justice information system; and

- establishes instead that the information is required to be removed unless new information is submitted that meets the bill's submission criteria to be included in those databases.

The bill repeals the provision establishing that the two-year period does not include any period during which the child who is the subject of the information is confined in TDCJ or committed to TJJD for conduct that violates a penal law of the grade of felony.

S.B. 2201 requires the state auditor to annually conduct an audit of information that is held in DPS's intelligence database.

S.B. 2201 repeals the following provisions of the Code of Criminal Procedure:

- Article 67.054(c);
- Article 67.151(c); and
- Article 67.152(c).

### **EFFECTIVE DATE**

September 1, 2025.