

BILL ANALYSIS

Senate Research Center
89R21627 JSC-D

C.S.S.B. 2201
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Border Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

With the rise of cartels and other organized criminal gangs throughout the state as well as the tactics they utilize throughout their operations, the submission criteria of suspected gang members to a law enforcement intelligence database do not meet the needs of law enforcement agencies. Specifically, the rise of Tren de Aragua (TdA) has caused significant concern for all levels of law enforcement across the United States as this Venezuelan gang has proved difficult to track.

Amending the submission criteria of individuals reasonably suspected to be involved in criminal activity will grant law enforcement agencies new and additional information to track. By tracking criminal organizations and their suspected members, law enforcement officials stand a better chance to dismantle the cartels, gangs, and foreign terrorist organizations that threaten the safety of Texans. These organizations pose significant risks to public safety by not only carrying out criminal activity and violence, but by also smuggling dangerous drugs and criminals across the border.

S.B. 2201 amends current submission criteria to more closely align law enforcement operations with the evolving tactics of cartels and criminal street gangs. S.B. 2201 also revises data retention policy to align with federal law and ensure that an individual's data is removed in five years unless new identifying information is validated.

(Original Author/Sponsor's Statement of Intent)

C.S.S.B. 2201 amends current law relating to intelligence databases for combinations, criminal street gangs, and foreign terrorist organizations.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas is modified in SECTION 1 (Article 67.053, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 67.053, Code of Criminal Procedure, by adding Subsection (b-1) and amending Subsection (c) as follows:

(b-1) Requires the Department of Public Safety of the State of Texas (DPS) to develop and make available a minimum training course for access to and use of the intelligence database established by DPS under Article 67.052 (Department Intelligence Database). Requires a person, before the person is authorized to access and use the intelligence database, to complete the minimum training course described by this subsection.

(c) Requires DPS to adopt rules necessary to implement Article 67.053 (Intelligence Database User Training; Rules), including the content of the training course required by Subsection (b-1).

SECTION 2. Amends Article 67.054, Code of Criminal Procedure, by amending Subsection (b) and adding (b-1), as follows:

(b) Requires that criminal information collected under Chapter 67 (Compilation of Information Pertaining to Combinations and Criminal Street Gangs) relating to a criminal street gang or foreign terrorist organization:

(1) makes no changes to this subdivision; and

(2) consist of:

(A) makes no changes to this paragraph;

(B) self-admission, which may be implied or demonstrated, by an individual of membership in a criminal street gang or foreign terrorist organization, 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, rather than a self-admission that is made during a judicial proceeding; or

(C) any two of the following:

(i) an identification of the individual as a member of a criminal street gang or foreign terrorist organization by a documented criminal street gang member or foreign terrorist organization member or a family member, rather than a reliable informant or other individual;

(ii) evidence that the individual frequents or is located at a previously documented area of a criminal street gang or foreign terrorist organization, including physical, digital, or online locations, rather than evidence that the individual associates with known members of a criminal street gang or foreign terrorist organization;

(iii) 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, rather than a criminal street gang or foreign terrorist organization that operates in an area frequented by the individual and described by existing Subparagraph (iv) (relating to a documented area of a criminal street gang or foreign terrorist organization);

(iv) evidence that the individual has been arrested or taken into custody, rather than taken into custody with known members of a criminal street gang or foreign terrorist organization, for an offense or conduct consistent with gang activity as defined by Section 125.061 (Definitions), Civil Practice and Remedies Code; with:

(a) known members of a criminal street gang or foreign terrorist organization; or

(b) 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;

(v) evidence that the individual communicates, whether in person, in writing, or electronically, with a known member of a criminal street gang or foreign terrorist organization, rather than has visited a known member other than a family member of the individual, while the member is confined in or committed to a penal institution; or

(vi) evidence of the individual's use of technology, including the Internet and social media, to advertise the criminal street gang or foreign terrorist organization or recruit new members of a criminal street gang or foreign terrorist organization.

Deletes text of existing Subparagraph (iii) requiring that criminal information collected under Chapter 67 relating to a criminal street gang or foreign terrorist organization consist of 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. Makes nonsubstantive changes.

(b-1) Requires that a law enforcement officer's name and department, if the officer has reasonable suspicion that an individual is associated with a criminal street gang or foreign terrorist organization as a result of meeting the criteria to be included in the intelligence database, be included in the database with the individual's information.

SECTION 3. Amends Article 67.151(b), Code of Criminal Procedure, as follows:

(b) Requires that information that is collected about an individual under this chapter and that relates to a criminal street gang be removed after five years from an intelligence database established under Article 67.051 (Intelligence Databases Required) and the intelligence database maintained by DPS under Article 67.052 unless the information continues to meet the submission criteria under Article 67.054 (Submission Criteria) to be included in those intelligence databases.

Deletes existing text requiring that, subject to Subsection (c) (relating to providing that the five-year period does not include certain periods), information collected under this chapter and relating to a criminal street gang be removed after five years from an intelligence database established under Article 67.051 and the intelligence database maintained by DPS under Article 67.052 if the information relates to the investigation or prosecution of criminal activity engaged in by an individual other than a child and the individual who is the subject of the information has not been arrested for criminal activity reported to DPS under Chapter 66 (Criminal History Record System). Makes nonsubstantive changes.

SECTION 4. Amends Article 67.152(b), Code of Criminal Procedure, as follows:

(b) Requires that information that is collected about a child under this chapter and that relates to a criminal street gang be removed after two years from an intelligence database established under Article 67.051 and the intelligence database established under Article 67.051 and the intelligence database maintained by DPS under Article 67.052 unless the information continues to meet the submission criteria under Article 67.054 to be included in those intelligence databases.

Deletes existing text requiring that, subject to Subsection (c) (relating to providing that the two-year period does not include certain periods) information collected under this chapter relating to a criminal street gang be removed after two years from an intelligence database established under Article 67.051 and the intelligence database maintained by DPS under Article 67.052 if the information relates to the investigation or prosecution of criminal activity engaged in by a child and the child who is the subject of the information

has not been arrested for criminal activity reported to DPS under Chapter 66 or taken into custody for delinquent conduct reported to DPS under Chapter 58 (Records; Juvenile Justice Information System), Family Code. Makes nonsubstantive changes.

SECTION 5. Amends Subchapter D, Chapter 67, Code of Criminal Procedure, by adding Article 67.153, as follows:

Art. 67.153. AUDIT. Requires the state auditor to annually conduct an audit of information that is held in the DPS intelligence database maintained under Article 67.052.

SECTION 6. Repealer: Article 67.054(c) (relating to providing that certain 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 certain information), Code of Criminal Procedure.

Repealers: Articles 67.151(c) (relating to providing that the five-year period does not include certain periods) and 67.152(c) (relating to providing that the two-year period does not include certain periods), Code of Criminal Procedure.

SECTION 7. (a) Requires DPS to develop and make available the minimum training course required by Article 67.053(b-1), Code of Criminal Procedure, as added by this Act, not later than January 1, 2026.

(b) Provides that a person who begins accessing the intelligence database maintained under Chapter 67, Code of Criminal Procedure, before January 1, 2026, is not required to take the minimum training course described by Article 67.053(b-1), Code of Criminal Procedure, as added by this Act, before January 1, 2027.

SECTION 8. Effective date: September 1, 2025.