

By: González of El Paso

H.B. No. 1274

A BILL TO BE ENTITLED

AN ACT

relating to intelligence databases for combinations, criminal street gangs, and foreign terrorist organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 67, Code of Criminal Procedure, is amended by adding Article 67.055 to read as follows:

Art. 67.055. NOTIFICATION REGARDING INCLUSION OF INFORMATION IN DEPARTMENT'S INTELLIGENCE DATABASE. (a) Not later than the 60th day after the date the department includes information relating to a person in the department's intelligence database maintained under Article 67.052, the department shall provide to the person by certified mail to the person's last known address:

(1) notification regarding the inclusion of the person's information in the department's intelligence database;

(2) a description of the process for disputing the inclusion of information in the database, including associated costs or fees, processes and timelines, and any potential evidence necessary for purposes of a dispute; and

(3) a description of the process for removing information from the database following renunciation of membership in a combination, criminal street gang, or foreign terrorist organization.

(b) The department shall post on the department's Internet

1 website information regarding the processes described by  
2 Subsections (a)(2) and (3).

3 SECTION 2. Subchapter C, Chapter 67, Code of Criminal  
4 Procedure, is amended by adding Article 67.1015 to read as follows:

5 Art. 67.1015. PROHIBITED RELEASE AND USE OF INFORMATION IN  
6 DEPARTMENT'S INTELLIGENCE DATABASE. A person's information  
7 included in the intelligence database maintained by the department  
8 under Article 67.052 may not:

9 (1) be made available for or used in a determination of  
10 the person's employment eligibility;

11 (2) limit any rights given to the person by the United  
12 States Constitution or Texas Constitution; or

13 (3) limit the person's ability to obtain any federal or  
14 state license, permit, or benefit.

15 SECTION 3. The heading to Subchapter D, Chapter 67, Code of  
16 Criminal Procedure, is amended to read as follows:

17 SUBCHAPTER D. REMOVAL OF INFORMATION AFTER EXPIRATION OF CERTAIN  
18 PERIOD

19 SECTION 4. Subchapter D, Chapter 67, Code of Criminal  
20 Procedure, is amended by adding Article 67.153 to read as follows:

21 Art. 67.153. AUDIT; SUMMARY; REMOVAL. (a) The state  
22 auditor annually shall conduct an audit of information that is held  
23 in the department's intelligence database maintained under Article  
24 67.052.

25 (b) If the state auditor finds that information has remained  
26 in the intelligence database for more than 10 years, the state  
27 auditor shall request that the department reestablish sufficient

1 evidence for inclusion of the information in the database. If the  
2 department is unable to establish sufficient evidence, the  
3 department promptly shall remove the information from the database.

4 (c) The state auditor shall create a summary of the audit  
5 performed under this article, disaggregating by race, age, gender,  
6 ethnicity, and residential zip code the total number of persons  
7 whose information is included in the intelligence database. The  
8 summary must specify the number of persons whose information has  
9 been retained in the intelligence database for more than five years  
10 and for more than 10 years.

11 (d) The department shall make the summary available on the  
12 department's Internet website.

13 SECTION 5. Articles 67.202(a), (b), (c), and (d), Code of  
14 Criminal Procedure, are amended to read as follows:

15 (a) On receipt of a written request of a person or the parent  
16 or guardian of a child that includes a showing by the person or the  
17 parent or guardian that a law enforcement agency may have collected  
18 criminal information under this chapter relating to the person or  
19 child that is inaccurate, ~~[or]~~ does not comply with the submission  
20 criteria under Article 67.054(b), or violates 28 C.F.R. Part 23,  
21 the Texas Constitution, or the United States Constitution, the head  
22 of the agency or the designee of the agency head shall review  
23 criminal information collected by the agency under this chapter  
24 relating to the person or child to determine whether ~~[if]~~:

25 (1) probable cause ~~[reasonable suspicion]~~ exists to  
26 believe that the information is accurate; ~~[and]~~

27 (2) the information complies with the submission

1 criteria established under Article 67.054(b); and

2 (3) inclusion of the information in the applicable  
3 intelligence database violates 28 C.F.R. Part 23, the Texas  
4 Constitution, or the United States Constitution.

5 (b) If, after conducting a review of criminal information  
6 under Subsection (a), the agency head or designee determines that  
7 probable cause [~~reasonable suspicion~~] does not exist to believe  
8 that the information is accurate, [~~or~~] determines that the  
9 information does not comply with the submission criteria, or  
10 determines that inclusion of the information in the intelligence  
11 database violates 28 C.F.R. Part 23, the Texas Constitution, or the  
12 United States Constitution, the agency shall:

13 (1) promptly destroy all records containing the  
14 information; and

15 (2) not later than the 10th business day after the date  
16 of the determination, notify the department and the person who  
17 requested the review of the agency's determination and the  
18 destruction of the records.

19 (c) If, after conducting a review of criminal information  
20 under Subsection (a), the agency head or designee determines that  
21 probable cause [~~reasonable suspicion~~] exists to believe that the  
22 information is accurate, [~~and~~] determines that the information  
23 complies with the submission criteria, and determines that  
24 inclusion of the information in the intelligence database does not  
25 violate 28 C.F.R. Part 23, the Texas Constitution, or the United  
26 States Constitution, the agency shall notify the person who  
27 requested the review:

1 (1) of the agency's determination not later than the  
2 10th business day after the date of the determination; and

3 (2) that the person is entitled to seek judicial  
4 review of the agency's determination under Article 67.203 not later  
5 than the 60th day after the date the person receives the written  
6 notification by the agency head or designee.

7 (d) Not later than the 10th business day after the date of  
8 ~~[On]~~ receipt of notice under Subsection (b)(2), the department  
9 ~~[immediately]~~ shall destroy all records containing the information  
10 that is the subject of the notice in the intelligence database  
11 maintained by the department under Article 67.052.

12 SECTION 6. Article 67.203, Code of Criminal Procedure, is  
13 amended to read as follows:

14 Art. 67.203. JUDICIAL REVIEW. (a) Not later than the 60th  
15 day after the date the person receives written notice under Article  
16 67.202(c), a [A] person who is entitled to seek judicial review of a  
17 determination made under that subsection ~~[Article 67.202(c)]~~ may  
18 file a petition for review in district court in the county in which  
19 the person resides.

20 (a-1) A court may grant judicial review of a petition filed  
21 after the date prescribed by Subsection (a) if the petitioner shows  
22 good cause for filing after that date.

23 (b) On the filing of a petition for review under Subsection  
24 (a), the district court shall conduct a hearing in which the court  
25 shall make available to the person's counsel under Article 39.14  
26 all criminal information that is the subject of the determination.  
27 The hearing shall be conducted ~~[an in camera review of the criminal~~

1 ~~information that is the subject of the determination]~~ to determine  
2 whether [~~if~~]:

3 (1) probable cause [~~reasonable suspicion~~] exists to  
4 believe that the information is accurate; [~~and~~]

5 (2) the information complies with the submission  
6 criteria under Article 67.054(b); and

7 (3) the inclusion of the information in the applicable  
8 intelligence database violates 28 C.F.R. Part 23, the Texas  
9 Constitution, or the United States Constitution.

10 (c) If, after a hearing [~~conducting an in camera review of~~  
11 ~~criminal information under Subsection (b)]], the court finds that  
12 probable cause [~~reasonable suspicion~~] does not exist to believe  
13 that the information is accurate, [~~or~~] finds that the information  
14 does not comply with the submission criteria, or finds that  
15 inclusion of the information in the intelligence database violates  
16 28 C.F.R. Part 23, the Texas Constitution, or the United States  
17 Constitution, not later than the 10th business day after the date  
18 the court makes its finding, the court shall:~~

19 (1) order the law enforcement agency that collected  
20 the information to promptly destroy all records containing the  
21 information; and

22 (2) notify the department of the court's finding  
23 [~~determination~~] and the destruction of the records.

24 (c-1) Not later than the 10th business day after the date of  
25 receipt of notice under Subsection (c)(2), the department shall  
26 destroy all records containing the information that is the subject  
27 of the notice in the intelligence database maintained by the

1 department under Article 67.052.

2 (d) A petitioner may appeal a final judgment of a district  
3 court [~~conducting an in camera review~~] under this article.

4 (e) Information that is the subject of [~~an in camera~~] review  
5 under this article is confidential and may not be disclosed, except  
6 the information is subject to disclosure as required by Article  
7 39.14 or under a subpoena or other legal process.

8 SECTION 7. Subchapter E, Chapter 67, Code of Criminal  
9 Procedure, is amended by adding Article 67.204 to read as follows:

10 Art. 67.204. RIGHT TO REMOVAL OF INFORMATION FROM  
11 DEPARTMENT'S INTELLIGENCE DATABASE AFTER RENUNCIATION. (a) A  
12 person who is no longer a member of a combination, criminal street  
13 gang, or foreign terrorist organization may renounce membership.  
14 On the second anniversary of the person's renunciation, the  
15 information of a person who renounces membership shall be removed  
16 from the department's intelligence database maintained under  
17 Article 67.052.

18 (b) The department shall adopt rules and forms for the  
19 process by which:

20 (1) a former member of a combination, criminal street  
21 gang, or foreign terrorist organization may renounce membership and  
22 provide evidence that the person is no longer a member of the  
23 combination, gang, or organization; and

24 (2) the department subsequently removes the former  
25 member's information from the department's intelligence database.

26 SECTION 8. This Act takes effect September 1, 2025.