

**SUBJECT:** DPS database of repeat offenders who commit family violence

**COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment

**VOTE:** 8 ayes — Pickett, Fletcher, Cortez, Dale, Flynn, Lavender, Sheets, Simmons  
0 nays  
1 absent — Kleinschmidt

**WITNESSES:** For — (*Registered, but did not testify:* Ashley Chadwick, Freedom of Information Foundation of Texas; Lon Craft, Texas Municipal Police Association; James Jones, San Antonio Police Department; Steven Tays, Bexar County Criminal District Attorney’s Office; Theresa Blake)  
Against — None  
On — (*Registered, but did not testify:* Skylor Hearn, Texas Department of Public Safety)

**BACKGROUND:** Penal Code, Title 5 covers offenses against the person. Offenses are listed under the categories of criminal homicide, kidnapping, unlawful restraint, smuggling of persons, trafficking of person, sexual offense, and assaultive offenses.  
Under Code of Criminal Procedure (CCP), art. 42.013, courts that determine at trial that an offense under Penal Code, Title 5 involved family violence as defined by Family Code, sec. 71.004 must make an affirmative finding of fact and enter it into the judgment of the case.  
Under CCP, art. 42.015, in trials for unlawful restraint, kidnapping, and aggravated kidnapping, a judge who determines that a victim was younger than 17 years old must make an affirmative finding of fact and enter it into the judgment.

**DIGEST:** HB 21 would require the Department of Public Safety (DPS) to maintain a computerized database of offenders who:

- had at least three convictions for offenses which had an affirmative finding of family violence made under CCP, art. 42.013 or art. 42.015; and
- were at least 17 years old when at least three of the offenses were committed.

The bill would expand the types of offenses that under CCP, art. 42.015 require judges to make an affirmative finding of fact if a victim were younger than 17 years old. This requirement would apply to all Penal Code, Title 5 offenses against persons, instead of only the offenses of unlawful restraint, kidnapping, and aggravated kidnapping.

The database would have to contain, to the extent available:

- the offender's name, aliases, date of birth, and last known address;
- a physical description and recent photograph of the offender;
- a list of each qualifying conviction, conviction date, and the punishment for each offense; and
- whether the person was discharged, placed on community supervision, or released on parole or mandatory supervision for each offense.

The database information would be public, with the exception of an offender's social security number, driver's license number, telephone number, and information that would identify the victim.

DPS would be required to permit persons in the database to petition for removal and would be required to remove a person's name if :

- an order of expunction had been issued for one of the qualifying offenses, unless the person had three or more other convictions for a qualifying offense; or
- during the seven years preceding the request the person had not been convicted of one of these offenses.

The website housing the database would have to include information about how to petition for removal from the database and the circumstances under which DPS would grant the petition.

DPS could not charge for processing electronic inquiries made through the Internet for public information in the database. The current prohibition on

DPS charging for processing electronic inquiries for public information in the sex offender database would be changed so that the electronic requests would have to be made through the Internet to be processed at no charge. Any person would be entitled to public information in the database.

The database would have to be implemented by January 1, 2014, and could include only information about persons who committed at least one of the qualifying offenses on or after the bill's effective date.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

HB 21 would increase awareness of domestic and family violence, help protect victims, and prevent additional incidents of these crimes. These steps are necessary given the prevalence of these crimes, the harm they do to victims, and the state's responsibility to help protect Texans from these offenders. Protecting public safety through a family violence database would be an appropriate role for the state.

Family violence is a serious problem. Last year about 48,825 adults and 30,228 children were served by family violence shelters. One study reported that 74 percent of Texans have either experienced some form of domestic violence themselves or have a family member or friend who has experience family violence.

HB 21 would take a step toward addressing domestic violence by giving Texans a tool to gather information about dangerous repeat offenders with a clear pattern of domestic violence and assaultive crimes against children. Persons committing these crimes could be a danger to others, and the public should have access to information about them.

The family violence registry would parallel the state's successful sex offender registry. The registry has allowed parents and the general public to gather information to protect themselves, and HB 21 would do the same. The bill contains safeguards to protect victims' privacy by specifically prohibiting information that would identify the victim. As with the sex offender registry, the protection of victims and the potential to prevent additional offenses outweigh concerns about the effect of the registry on offenders.

HB 21 is narrowly drawn to require information in the database only for those who present the most danger relating to family violence. It would apply to repeat adult offenders with a clear pattern of domestic violence and committing certain crimes against children.

The bill would recognize that in some situations it may be appropriate for offenders who have demonstrated that they no longer represent a clear danger to be removed from the database. Persons could petition for removal, and DPS would have to grant it if the conditions in the bill were met.

HB 21 would better protect children by expanding the current requirement that trial judges make a finding that a victim was a child. Requiring this of all offenses against a person would ensure that offenders' records reflected a pattern of danger to children.

Any effect on plea agreements should be minimal. Prosecutors take these cases seriously, and HB 21 would not change their efforts to work hard to achieve the best outcome in each case.

HB 21 would not cost the state or burden DPS. According to the Legislative Budget Board, there would be no significant fiscal implication to the state, and DPS could absorb the costs within its current appropriations. DPS could use its experience in establishing and maintaining the sex offender registry to implement HB 21.

**OPPONENTS  
SAY:**

HB 21 would not be an effective tool because a family violence database would be burdened with problems similar to those of the sex offender registry and would expand the scope of government without clear evidence it would accomplish its goal.

As with the sex offender registry, the bill could result in the creation of a database containing information about an overly broad group that included too many offenders who were not threats to the community. Such a database could have limited use to the public, because family violence offenders tend to be a threat to their family and household members, rather than the public. In addition, the database could create a false sense of security for the public because many abusers are not convicted and would not be in the database.

The effectiveness of the sex offender registry in reducing recidivism is

questionable, and it has been named as a factor inhibiting the ability of offenders to rehabilitate and reintegrate into society. The stigmatization associated with appearing in the sex offender registry can result in harassment and difficulty finding housing and employment. The database established in HB 21 could create similar problems.

Crime databases also can have negative effects on victims. For example, HB 21 could violate victims' or others' privacy if they could be linked to someone in the database. In addition, a family violence database could have a negative impact on the prosecution of these cases. Defendants could be reluctant to enter into plea agreements if inclusion on a public database followed a guilty plea. This could make cases in which the evidence was not strong or a victim was reluctant to testify much more difficult to prove.