

## **BILL ANALYSIS**

Senate Research Center

S.B. 8  
By: West  
Criminal Justice  
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As Filed

### **DIGEST**

Currently, Texas law allows a criminal justice agency to compile certain information for the purpose of investigating or prosecuting the criminal activities of combinations. A local criminal justice agency is currently prohibited from sending this information to a statewide database, but is permitted to compile this information in a local or regional database. Collecting and maintaining criminal intelligence information on individuals requires special treatment in order to ensure a person's constitutional rights are never violated. This bill requires the Texas Department of Public Safety to establish and maintain a statewide criminal street gang database, which operates in accordance with policies established in Title 28, Part 23 of the Code of Federal Regulations, and meets the submission criteria for gangs and gang members established in the National Crime Information Center Violent Gang and Terrorist Organizations File.

### **PURPOSE**

As proposed, S.B. 8 authorizes a criminal justice agency to compile criminal intelligence information pertaining to criminal street gangs.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 61.01(1), Code of Criminal Procedure, to define "criminal street gang" and "gang intelligence database."

SECTION 2. Amends Article 61.02, Code of Criminal Procedure, as follows:

Art. 61.02. New heading: CRIMINAL COMBINATION INFORMATION DATABASE. Authorizes a criminal justice agency to compile criminal information into an intelligence database, rather than system, subject to Subsections (b) and (c). Authorizes a law enforcement agency to compile and maintain criminal intelligence information in a local or regional database if the agency complies with certain operating policies and submission criteria. Authorizes a local law enforcement agency to compile and maintain intelligence information relating to a criminal street gang only if the governing body of the municipality or county served by the local law enforcement agency (governing body) authorizes such action.

SECTION 3. Amends Articles 61.03(c) and (d), Code of Criminal Procedure, to authorize a local law enforcement agency to send information relating to criminal street gangs compiled and maintained under this chapter to the Texas Department of Public Safety (DPS) if authorized to do so by the governing body, rather than prohibiting a criminal justice agency from sending information collected under this chapter to a statewide database. Requires the DPS to maintain information collected under this chapter in a criminal database which operates in accordance with certain operating policies and submission criteria.

SECTION 4. Amends Article 61.04, Code of Criminal Procedure, by adding Subsection (d) as follows:

(d) Authorizes a governing body to adopt a policy to notify a parent or guardian of a child of a local law enforcement agency's observations relating to the child's association with criminal street gangs.

SECTION 5. Amends Chapter 61, Code of Criminal Procedure, by adding Articles 61.07 and 61.08, as

follows:

Art. 61.07. RIGHT TO REQUEST REVIEW OF CRIMINAL INFORMATION. Requires the head of a law enforcement agency to review criminal information collected by that agency, upon request by a person or guardian of a child about whom information is collected, to determine if reasonable cause exists to believe that the information is accurate. Requires an agency to destroy all records containing certain information and notify the person who requested the review of the agency's determination and destruction of records in question, if the agency head determines that reasonable cause does not exist to believe that the information is accurate. Requires an agency to notify a person who requested a review of the agency's determination and the person's entitlement to seek judicial review of the agency's determination, if reasonable cause exists to believe that collected information is accurate.

Art. 61.08. JUDICIAL REVIEW. Authorizes a person entitled to seek judicial review of a determination to file a petition for review in district court. Requires a district court, on a filing of a petition for review, to conduct an in camera review of the collected information to determine if reasonable cause exist to believe that the information is accurate. Requires a court, that finds that reasonable cause does not exist to believe that the collected information is accurate, to order the law enforcement agency that collected the information to destroy all records containing the information. Authorizes a petitioner to appeal a final judgment of a district court conducting an in camera review.

SECTION 6. Repealer: Article 61.06, Code of Criminal Procedure (Destruction of Records).

SECTION 7. Requires any law enforcement agency that collected information under Chapter 61, Code of Criminal Procedure, to review certain information to determine if the information was collected in accordance with certain operating policies and submission criteria and purge all records containing information collected in a manner not in accordance with certain operating policies and submission criteria.

SECTION 8. Requires the governor, lieutenant. governor and the speaker of the house of representatives to establish a legislative oversight committee to study the effectiveness of any criminal intelligence information system, no later than September 1, 1999. Requires the DPS to report on the use and effectiveness of any criminal intelligence information system, no later than December 1, 2000.

SECTION 9. Emergency clause.  
Effective date: upon passage.