

## **BILL ANALYSIS**

Senate Research Center  
76R11692 JMC-F

C.S.S.B. 8  
By: West  
Criminal Justice  
4/9/1999  
Committee Report (Substituted)

### **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, C.S.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, Code of Criminal Procedure, by amending Subdivision (1) and adding Subdivisions (7) and (8), to define "criminal street gang," "department," and "intelligence database."

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

Art. 61.02. New heading: **CRIMINAL INFORMATION INTELLIGENCE DATABASE.** Authorizes a criminal justice agency to compile criminal information into an intelligence database, rather than system, subject to Subsection (b) for the purpose of investigating criminal street gangs. Requires a law enforcement agency to compile and maintain criminal information relating to a criminal street gang in a local or regional intelligence database if the agency complies with certain operating policies and submission criteria.

SECTION 3. Amends Articles 61.03(c) and (d), Code of Criminal Procedure, to require 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), rather than prohibiting a criminal justice agency from sending information collected under this chapter to a statewide database. Requires DPS to maintain information received from a local law enforcement agency under Subsection (c) in an intelligence database 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 of a county or municipality served by the local law enforcement that collects criminal information under this chapter (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 that includes a showing by the person or the parent or guardian that a law enforcement agency has collected inaccurate criminal information under this chapter relating to the person or child, to determine if reasonable suspicion exists to believe that the information is inaccurate. 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 suspicion exists to believe that the information is inaccurate. 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 suspicion does not exist to believe that collected information is inaccurate.

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 suspicion exist to believe that the information is inaccurate. Requires a court, that finds that reasonable suspicion exists to believe that the collected information is inaccurate, 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 criminal 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, not later than January 1, 2000.

SECTION 8. Requires DPS to report on the use and effectiveness of the intelligence database under Article 61.03(d), Code of Criminal Procedure, no later than December 1, 2000.

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

## **SUMMARY OF COMMITTEE CHANGES**

### SECTION 1.

Amends Article 61.01, Code of Criminal Procedure, to define "department" and "intelligence database."

### SECTION 2.

Amends Article 61.02, Code of Criminal Procedure, to amend the section heading. Authorizes a criminal justice agency to compile criminal information into an intelligence database for the purpose of investigating criminal street gangs. Deletes a provision authorizing a local law enforcement agency to compile certain criminal intelligence information. Makes conforming changes.

### SECTION 3.

Amends Article 61.03(c), Code of Criminal Procedure, to require a local law enforcement agency to send information relating to criminal street gangs compiled and maintained under this chapter to DPS.

Amends Article 61.03(d), Code of Criminal Procedure, to require DPS to maintain information received from a local law enforcement agency under Subsection (c) in an intelligence database.

SECTION 4.

Amends Article 61.04(d), Code of Criminal Procedure, to make a nonsubstantive change.

SECTION 5.

Amends Article 61.07, Code of Criminal Procedure, to require 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 that includes a showing by the person or the parent or guardian that a law enforcement agency has collected inaccurate criminal information under this chapter relating to the person or child, to determine if reasonable suspicion exists to believe that the information is inaccurate. Makes conforming changes.

Amends Article 61.08, Code of Criminal Procedure, to make conforming changes.

SECTION 7.

Makes a conforming change.

SECTION 8.

Requires DPS to report on the use and effectiveness of the intelligence database under Article 61.03(d), Code of Criminal Procedure, no later than December 1, 2000. Deletes text regarding a legislative oversight committee.