

Chapter 736

AN ACT

1  
2 relating to the compilation, maintenance, and release of  
3 information in a criminal street gang intelligence database by law  
4 enforcement agencies and criminal justice agencies.

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

6 SECTION 1. Article 61.02, Code of Criminal Procedure, is  
7 amended by amending Subsections (a) and (b) and adding Subsection  
8 (b-1) to read as follows:

9 (a) Subject to Subsection (b), a criminal justice agency  
10 shall [~~may~~] compile criminal information into an intelligence  
11 database for the purpose of investigating or prosecuting the  
12 criminal activities of criminal combinations or criminal street  
13 gangs. [~~The information may be compiled on paper, by computer, or~~  
14 ~~in any other useful manner.~~]

15 (b) A law enforcement agency in a municipality with a  
16 population of 50,000 or more or in a county with a population of  
17 100,000 or more shall [~~may~~] compile and maintain in a local or  
18 regional intelligence database criminal information relating to a  
19 criminal street gang as provided by Subsection (a). The  
20 information must be compiled and maintained [~~in a local or regional~~  
21 ~~intelligence database only if the agency compiles and maintains the~~  
22 ~~information]~~ in accordance with the criminal intelligence systems  
23 operating policies established under 28 C.F.R. Section 23.1 et seq.  
24 and the submission criteria established under Subsection (c).

1           **(b-1) Information described by this article may be compiled**  
2 **on paper, by computer, or in any other useful manner by a criminal**  
3 **justice agency or law enforcement agency.**

4           SECTION 2. Subsections (a) and (c), Article 61.03, Code of  
5 Criminal Procedure, are amended to read as follows:

6           (a) A criminal justice agency [~~that maintains criminal~~  
7 ~~information under this chapter~~] may release on request [~~the~~]  
8 information maintained under this chapter [~~on request~~] to:

- 9                   (1) another criminal justice agency;
- 10                   (2) a court; or
- 11                   (3) a defendant in a criminal proceeding who is
- 12 entitled to the discovery of the information under Chapter 39.

13           (c) A [~~If a~~] local law enforcement agency described by  
14 Article 61.02(b) [~~compiles and maintains information under this~~  
15 ~~chapter relating to a criminal street gang, the agency~~] shall send  
16 to the department [~~the~~] information compiled and maintained under  
17 this chapter [~~to the department~~].

18           SECTION 3. Subsections (b) and (d), Article 61.04, Code of  
19 Criminal Procedure, are amended to read as follows:

20           (b) A criminal justice agency [~~that maintains information~~  
21 ~~under this chapter~~] may release [~~the~~] information maintained under  
22 this chapter to an attorney representing a child who is a party to a  
23 proceeding under Title 3, Family Code, if the juvenile court  
24 determines the information:

- 25                   (1) is material to the proceeding; and
- 26                   (2) is not privileged under law.

27           (d) The [~~If a local law enforcement agency collects criminal~~

1 ~~information under this chapter relating to a criminal street gang,~~  
2 ~~the~~ governing body of a the county or municipality served by a  
3 ~~the~~ law enforcement agency described by Article 61.02(b) may  
4 adopt a policy to notify the parent or guardian of a child of the  
5 agency's observations relating to the child's association with a  
6 criminal street gang.

7 SECTION 4. Chapter 61, Code of Criminal Procedure, is  
8 amended by adding Article 61.12 to read as follows:

9 Art. 61.12. DATABASE USER TRAINING. (a) The department  
10 shall enter into a memorandum of understanding with the United  
11 States Department of Justice or other appropriate federal  
12 department or agency to provide any person in this state who enters  
13 information into or retrieves information from an intelligence  
14 database described by this chapter with training regarding the  
15 operating principles described by 28 C.F.R. Part 23, as those  
16 principles relate to an intelligence database established or  
17 maintained under this chapter.

18 (b) A person in this state who enters information into or  
19 retrieves information from an intelligence database described by  
20 this chapter shall complete continuing education training on the  
21 material described by Subsection (a) at least once for each  
22 continuous two-year period the person has primary responsibility  
23 for performing a function described by this subsection.

24 (c) The department shall adopt the rules necessary to  
25 implement this article.

26 SECTION 5. (a) Not later than October 1, 2009, the  
27 Department of Public Safety of the State of Texas shall adopt rules

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1 as required by Article 61.12, Code of Criminal Procedure, as added  
2 by this Act.

3 (b) The Department of Public Safety of the State of Texas  
4 shall enter into a memorandum of understanding with the United  
5 States Department of Justice or other appropriate federal  
6 department or agency, as required by Article 61.12, Code of  
7 Criminal Procedure, as added by this Act, not later than December 1,  
8 2009.

9 SECTION 6. This Act takes effect September 1, 2009.

S.B. No. 418

David Dewhurst  
President of the Senate

Jim Strawn  
Speaker of the House

I hereby certify that S.B. No. 418 passed the Senate on April 30, 2009, by the following vote: Yeas 31, Nays 0.

Daisy Saw  
Secretary of the Senate

I hereby certify that S.B. No. 418 passed the House on May 27, 2009, by the following vote: Yeas 148, Nays 0, one present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

19 JUN '09  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
2:00 O'CLOCK  
JUN 19 2009

Colby Hunter III