

SUBJECT: Access to criminal history information for intoxication manslaughter

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Carter, Hughes, Leach, Moody, Toth

1 nay — Schaefer

2 present not voting — Burnam, Canales

WITNESSES: For — (*Registered, but did not testify*: Scott Houston, Texas Municipal League; Bill Lewis, Mothers Against Drunk Driving; Kelly Riddle, Freedom of Information Foundation of Texas)

Against — (*Registered, but did not testify*: Kristin Etter, Texas Criminal Defense Lawyers Association)

DIGEST: CSHB 133 would make criminal history record information concerning a person's conviction within the preceding 10-year period for intoxication manslaughter public information that anyone could obtain from the Texas Department of Public Safety (DPS). This information would not include:

- any information regarding the person's social security number, driver's license number, or telephone number; nor
- any information that would identify a victim of the offense.

DPS would be required to implement and maintain a public website to allow any person, free of charge, to search for and receive the information made public by the bill. The website would have to be searchable by zip code, city, county, or the name of the person convicted. The search results would need to include for each person convicted:

- the person's full name and last known address; and
- a recent photograph of the person, if available.

DPS would be required to remove a person's information from the website as soon as practicable after the earliest of:

- the 10th anniversary of the date of the conviction;

- the date on which the conviction was reversed on appeal; or
- the date on which an order of expunction was entered with respect to records and files in the case.

CSHB 133 would require DPS to establish a procedure by which a peace officer or employee of a law enforcement agency could request and receive any criminal history record information concerning the conviction of a person for intoxication manslaughter within the preceding 10-year period. This information would be provided in response to a peace officer providing a driver's license number, personal identification certificate number, or license plate number.

The procedure established by DPS to provide this information would have to allow a peace officer to request it from the location of a motor vehicle stop and receive a response within the duration of a reasonable motor vehicle stop.

DPS would be required to implement the website and new procedures by May 1, 2014.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 133 would protect Texans and equip law enforcement with better tools for tracking and interacting with repeat drunk driving offenders. Drinking and driving affects communities and harms families. Deaths resulting from alcohol-related car accidents occur daily in Texas, and the only way to correct this problem is through a concerted statewide effort by all citizens. The bill would be an important step toward making the changes needed to reduce drunk driving and save lives.

The website required by the bill would help raise awareness of deaths caused by drunk driving. The website would only provide information about the most heinous intoxication offense, which is the most important for Texans to easily discover. It would help citizens gather information about who could be trusted to operate a vehicle. The public could use the website to ensure that people with whom they might be considering carpooling or whom they might have considered allowing to drive their children had not been convicted of intoxication manslaughter. The bill would help keep communities and innocent people safe and give them an important tool to keep themselves and loved ones from harm.

Law enforcement officers in the field need better information to enforce the law and protect themselves. An officer who pulls over and approaches an erratic driver should have the opportunity to know whether the driver being approached is a habitual and dangerous drunk driver. Law enforcement officers need as much information as possible to be able to assess and appropriately respond to a situation.

OPPONENTS
SAY:

CSHB 133 would open the door to disclosure of crimes that should not be readily available to the public. Experience shows that criminal-information databases, like the website this bill would create and the sex offender registry, tend to expand after they are established. In a few years, this website could grow to include an overly broad group of people, many of whom were not threats to the community. The bill as filed would have included information about a broad range of intoxication offenses on the website. If the website contemplated by the bill were established, it eventually could expand to include all these offenses again.

The bill would not be an effective tool for Texans, and primarily would serve the purpose of public shaming. The criminal justice system exists to penalize people for their crimes, and attaching a digital scarlet letter to people convicted of intoxication manslaughter would be an unnecessary additional punishment that would interfere with their ability to lead normal lives. Stigmatization primarily serves the purpose of excluding the subjects from regular society and forcing them into communities and situations in which they would be more likely to re-offend.

CSHB 133 could lead to overzealous law enforcement and unnecessary escalation of routine traffic stops unrelated to intoxication offenses. A police officer stopping a driver for a broken tail light, speeding, or some other minor traffic violation does not need access to information about that driver's previous intoxication manslaughter offenses during the traffic stop. Providing this information during such a stop could bias officers and encourage them to treat a minor incident in a more extreme manner than the situation merited. Police have access to criminal history records where and when that access is appropriate. They do not need the information this bill would provide to conduct traffic stops.