

BILL ANALYSIS

Senate Research Center

C.S.S.B. 779
By: Whitmire
Criminal Justice
3/23/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Studies have demonstrated that violent offenders often have histories of serious and repeated animal abuses. The Federal Bureau of Investigation has recognized this connection since the 1970s when its analysis of serial killers' pasts suggested that most had killed or tortured animals during their life. Other research has shown consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child, spousal, and elder abuse.

C.S.S.B. 779 creates an animal cruelty registry to be maintained by the Department of Public Safety of the State of Texas. Anyone who is convicted of or receives deferred adjudication for one or more felony offenses under Section 42.092 (Cruelty to NonLivestock Animals) or Section 42.10 (Dog Fighting), Penal Code, will be required to register for a period of 10 years.

C.S.S.B. 779 allows a person required to register to petition the court having jurisdiction over the case for an order exempting the person from registration. It applies to anyone 17 years of age or older at the time of the offense(s). Failure to comply with registration requirements will be a Class C misdemeanor.

C.S.S.B. 779 will clarify any concerns over retroactive enforcement. It will allow for an individual petitioning the court to petition for exemption immediately upon conviction. It will also make failure to comply a Class C misdemeanor, rather than a Class B misdemeanor.

C.S.S.B. 779 amends current law relating to a central database containing information about certain persons who have been convicted of or received a grant of deferred adjudication for certain offenses involving animal cruelty and provides a criminal penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 1 (Article 61A.02, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 1, Code of Criminal Procedure, by adding Chapter 61A, as follows:

CHAPTER 61A. ANIMAL CRUELTY REGISTRATION PROGRAM

Art. 61A.01. DEFINITIONS. Defines "department," "local law enforcement authority," and "penal institution" in this chapter.

Art. 61A.02. CENTRAL DATABASE; PUBLIC INFORMATION. (a) Requires the Department of Public Safety of the State of Texas (DPS), to the extent that funding is available under Article 61A.07, to establish and maintain a computerized central database containing information regarding persons who:

- (1) have been convicted of or received a grant of deferred adjudication for one or more felony offenses under Section 42.092 (Cruelty to Non-Livestock Animals) or 42.10 (Dog Fighting), Penal Code; and

(2) were 17 years of age or older at the time of the offense.

(b) Requires a person described by Subsection (a), if a computerized central database is established by DPS under that subsection, to register as required by this chapter until the 10th anniversary of the date the person was last convicted of or received a grant of deferred adjudication for an offense described by Subsection (a)(1).

(c) Provides that the information contained in the database is public information, with the exception of any information regarding the person's social security number, driver's license number, or telephone number.

(d) Requires DPS to publish on its Internet website all public information contained in the database.

(e) Requires DPS by rule, to the extent that funding is available under Article 61A.07, in cooperation with the Board of Pardons and Paroles, the Texas Department of Criminal Justice, and the Commission on Jail Standards, to design and implement a system for the registration of persons described by Subsection (a). Requires that the system establish requirements and procedures for:

(1) a person described by Subsection (a) to be notified, before the person's discharge or release, of the person's duty to register with a local law enforcement authority for the period required by Subsection (b);

(2) the person to register or verify registration with a local law enforcement authority annually, every 90 days if the person is determined by DPS to be high risk because of the person's status as a repeat offender, or every 30 days if the person does not have a permanent address;

(3) the person to register with a local law enforcement authority not later than five days after the date the person changes address;

(4) the database to track whether a person described by Subsection (a) is in compliance with registration requirements and, if the person is not in compliance, to make that information available to other persons requesting the information;

(5) a local law enforcement authority to promptly forward registration information to DPS for use in the database;

(6) the database to track whether a person described by Subsection (a) is attending or is planning to attend a public or private institution of higher education and, if so, DPS to promptly forward that information to the applicable institution of higher education;

(7) the inclusion in the database and on DPS's Internet website of a recent photograph of the person, updated annually; and

(8) DPS to update the database daily.

Art. 61A.03. INFORMATION PROVIDED TO PEACE OFFICER ON REQUEST. Requires DPS to establish a procedure by which a peace officer or employee of a law enforcement agency who provides DPS with a driver's license number, personal identification certificate number, or license plate number is automatically provided information as to whether the person to whom the driver's license or personal identification certificate is issued is required to register under this chapter or whether the license plate number is entered in the computerized central database under Article 61A.02 as assigned to a vehicle owned or driven by a person required to register under this chapter.

Art. 61A.04. IMMUNITY FOR RELEASE OF PUBLIC INFORMATION. (a) Authorizes DPS, a penal institution, or a local law enforcement agency to release to the public information regarding a person required to register under this chapter only if the information is public information under Article 61A.02(c).

(b) Provides that an individual, agency, entity, or authority is not liable under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, or any other law for damages arising from conduct authorized by Subsection (a).

(c) Provides that for purposes of determining liability, the release or withholding of information by an appointed or elected officer of an agency, entity, or authority is a discretionary act.

(d) Authorizes a public or private institution of higher education or administrator of a public or private institution of higher education to release to the public information regarding a person required to register under this chapter only if the information is public information under Article 61A.02(c) and is released to the administrator under Article 61A.02. Provides that a public or private institution of higher education or administrator of a public or private institution of higher education is not liable under any law for damages arising from conduct authorized by this subsection.

Art. 61A.05. EXEMPTION FROM REGISTRATION FOR CERTAIN ANIMAL CRUELTY OFFENDERS. (a) Authorizes a person required to register under this chapter to petition the court having jurisdiction over the case for an order exempting the person from registration under this chapter at any time after the person's sentencing or after the person is placed on deferred adjudication.

(b) Authorizes the court, after a hearing on the petition described by Subsection (a), to issue an order exempting the person from registration under this chapter if the court finds that an exemption would be in the best interest of justice.

(c) Provides that an order exempting the person from registration under this chapter does not expire, except that the court may withdraw the order if, after the order is issued, the person receives another conviction or a grant of deferred adjudication for a misdemeanor or felony offense under Section 42.092 or 42.10, Penal Code.

Art. 61A.06. FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS. (a) Provides that a person commits an offense if the person is required to register and fails to comply with any requirement of this chapter.

(b) Provides that an offense under this article is a Class C misdemeanor.

Art. 61A.07. FUNDING. Authorizes DPS to solicit and accept a gift, grant, or donation from any source, including a foundation, private entity, governmental entity, or institution of higher education, for the establishment and maintenance of the computerized central database described by this chapter and the implementation of a related system of registration under this chapter. Requires DPS to establish and maintain the database and implement the registration system only if sufficient funds are available under this article for those purposes.

SECTION 2. Amends Section 411.135(a), Government Code, to entitle any person to obtain from DPS certain information including any information described as public information under Chapters 61A or 62 (Sex Offender Registration Program), Code of Criminal Procedure, including, to the extent available, a recent photograph of each person subject to registration under Chapters 61A or 62. Makes nonsubstantive changes.

SECTION 3. (a) Makes application of Chapter 61A, Code of Criminal Procedure, as added by this Act, prospective.

(b) Requires DPS, as soon as practicable after sufficient funding becomes available under Article 61A.07, Code of Criminal Procedure, as added by this Act, to establish the requirements and procedures required by Articles 61A.02(e) and 61A.03, Code of Criminal Procedure, as added by this Act, and requires that the central database required by Chapter 61A, Code of Criminal Procedure, as added by this Act, be designed and implemented.

SECTION 4. Effective date: upon passage or September 1, 2011.