

- SUBJECT:** Database of offenders who commit family violence against children
- COMMITTEE:** Public Safety — favorable, without amendment
- VOTE:** 7 ayes — Merritt, Frost, Burnam, Lewis, Mallory Caraway, Rodriguez, Vo
- 0 nays
- 2 absent — Driver, P. King
- WITNESSES:** For — (*Registered, but did not testify:* Katrina Daniels, Bexar County District Attorney Susan D. Reed)
- Against — (*Registered, but did not testify:* David Gonzalez, Texas Criminal Defense Lawyers Association)
- On — (*Registered, but did not testify:* Angie Kendall, Texas Department of Public Safety)
- BACKGROUND:** Family Code, ch. 71 defines "family violence" as:
- abuse by a member of a family or household toward a child of the family or household; or
 - an act that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places a person in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself by a member of a family or household against another member of the family or household, or by a an individual against another with whom that person has or had a dating relationship.
- “Family” is defined to include individuals related by consanguinity or affinity, former spouses of each other, parents of the same child, and a foster child and foster parent, without regard to whether those individuals reside together.
- A “dating relationship” is defined as a continuing relationship of a romantic or intimate nature.

“Household” is defined as a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other.

DIGEST:

HB 4108 would amend Government Code, ch. 411 by adding sec. 411.1356 to require the Department of Public Safety (DPS) to maintain a central computerized database containing information regarding persons convicted of an offense for which an affirmative finding of family violence was made, and of which the victim was a child of the family or household who was younger than 17 years of age when the offense was committed.

The information contained in the database would be public information, with the exception of any information regarding the person’s Social Security, driver’s license, or telephone number, or that would identify the child victim.

The database would have to contain, to the extent available:

- the person’s full name, each alias, and date of birth;
- the person’s last known address;
- a physical description and recent photograph of the person;
- a list of each conviction of family violence against a child, the date of each conviction, and the punishment prescribed for each offense; and
- an indication as to whether the person was discharged, placed on juvenile probation or community supervision, or released on parole or to mandatory supervision following each conviction.

DPS could not charge for processing inquiries for criminal history record information made electronically via the Internet for such information. Any person would be entitled to this information.

DPS would be required to permit a person whose name was included in the database to petition for removal of the person’s name, and DPS would be required to remove the name if an order of expunction were issued with respect to an offense of family violence against a child, unless the person had one or more other convictions for family violence against a child, or the person established that, at the time the petition was made, a child under 17 years of age was not a member of the person’s family or household.

On the website on which a person could search the database, DPS would be required to include information regarding the method to petition for removal and the circumstances under which DPS would grant the petition.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009. It would apply only to information related to offenses committed on or after the effective date.

**SUPPORTERS
SAY:**

HB 4108 would protect children by giving parents and other concerned adults a tool to gather information about the suspicious behavior of certain individuals and to report potential abuse. Law enforcement would have the opportunity to investigate and intervene in dangerous situations. A searchable database of family violence offenders would arm the public with information that would help Texans keep children safe.

**OPPONENTS
SAY:**

HB 4108 would not be an effective tool, as a family violence registry would be burdened with problems similar to those of the sex offender registry. The large number of people and variety of offenses would not provide an accurate assessment of an offender's future risk to other children. The bill would not protect the public, as a family violence offender tends to be a threat to the offender's family and household members, rather than the public.

NOTES:

The estimated technology costs to comply with the development of a central database would include a one-time cost of \$275,275 in State Highway Funds in fiscal 2010 for computer programming changes.