



Sen. Patricia Van Pelt

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1 AMENDMENT TO SENATE BILL 275

2 AMENDMENT NO. _____. Amend Senate Bill 275 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Law
5 Enforcement Gang Database Information Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of State Police.

8 "Gang" means any combination, confederation, alliance,
9 network, conspiracy, understanding, or other similar
10 conjoining, in law or in fact, of 3 or more persons with an
11 established hierarchy that, through its membership or through
12 the agency of any member engages in a course or pattern of
13 criminal activity.

14 "Gang database" means a database accessed by a law
15 enforcement agency that designates a person as a gang member or
16 associate, or includes or points to information, including, but

1 not limited to, fact-based or uncorroborated information that
2 reflects a designation of that person as a gang member or
3 associate, not including a database that designates a person as
4 a gang member or associate using only criminal offender
5 information or a database assessed solely by a correctional
6 facility for classification or operational decisions of the
7 administration of the facility.

8 "Law enforcement agency" means an agency of this State or
9 unit of local government who is primarily responsible for the
10 detection, investigation, or prevention of crime and the
11 enforcement of the criminal laws of this State.

12 "Shared gang database" means a gang database that is
13 accessed by an agency or person outside of the agency that
14 created the records that populate the database.

15 Section 10. Written notice; designation on gang database.

16 (a) To the extent a local law enforcement agency elects to
17 utilize a shared gang database prior to a local law enforcement
18 agency designating a person as a suspected gang member,
19 associate, or affiliate in a shared gang database or otherwise
20 identifying the person in a shared gang database, the local law
21 enforcement agency shall provide written notice to the person,
22 and shall, if the person is under 18 years of age, provide
23 written notice to the person and his or her parent or guardian,
24 of the designation and the basis for the designation, unless
25 providing that notification would compromise an active

1 criminal investigation or compromise the health or safety of
2 the minor.

3 (b) The notice described in subsection (a) of this Section
4 shall describe the process for the person, or, if the person is
5 under 18 years of age, for his or her parent or guardian, or an
6 attorney working on behalf of the person, to contest the
7 designation of the person in the database. The notice shall
8 also inform the person of the reason for his or her designation
9 in the database.

10 (c) A person, or, if the person is under 18 years of age,
11 his or her parent or guardian, or an attorney working on behalf
12 of the person, may request information of any law enforcement
13 agency as to whether the person is designated as a suspected
14 gang member, associate, or affiliate in a shared gang database
15 accessible by that law enforcement agency and the name of the
16 law enforcement agency that made the designation. A request
17 made under this subsection (c) shall be in writing. A person
18 about whom information is requested under this subsection (c)
19 that is designated as a suspected gang member, associate, or
20 affiliate in a shared gang database by that law enforcement
21 agency, the person making the request may also request
22 information as to the basis for the designation for the purpose
23 of contesting the designation as described in Section 15 of
24 this Act.

25 (d) The law enforcement agency shall provide information
26 requested, unless doing so would compromise an active criminal

1 investigation or compromise the health or safety of the person
2 if the person is under 18 years of age. The law enforcement
3 agency shall respond to a valid request under subsection (c) of
4 this Section in writing to the person making the request within
5 30 calendar days of receipt of the request.

6 Section 15. Contest gang designation; written
7 verification.

8 (a) Subsequent to the notice or the law enforcement
9 agency's response to a request described in Section 10 of this
10 Act, the person designated or to be designated as a suspected
11 gang member, associate, or affiliate, or his or her parent or
12 guardian if the person is under 18 years of age, may submit
13 written documentation to the local law enforcement agency
14 contesting the designation. The local law enforcement agency
15 shall review the documentation, and if the agency determines
16 that the person is not a suspected gang member, associate, or
17 affiliate, the agency shall remove the person from the shared
18 gang database.

19 (b) The local law enforcement agency shall provide the
20 person and, if the person is under 18 years of age, his or her
21 parent or guardian, with written verification of the agency's
22 decision within 30 days of submission of the written
23 documentation contesting the designation. If the law
24 enforcement agency denies the request for removal, the notice
25 of its determination shall state the reason for the denial. If

1 the law enforcement agency does not provide a verification of
2 the agency's decision within the required 30-day period, the
3 request to remove the person from the gang database shall be
4 deemed denied. The person or, if the person is under 18 years
5 of age, his or her parent or guardian may petition the court to
6 review the law enforcement agency's denial of the request for
7 removal and order the law enforcement agency to remove the
8 person from the shared gang database under this Act. Nothing in
9 this Section shall require a law enforcement agency to disclose
10 information otherwise protected under the Freedom of
11 Information Act or law.

12 Section 20. Appeal of designation.

13 (a) A person who is listed by a law enforcement agency in a
14 shared gang database as a gang member, suspected gang member,
15 associate, or affiliate and who has contested his or her
16 designation under Section 15 of this Act, may petition the
17 court to review the law enforcement agency's denial of the
18 request for removal and to order the law enforcement agency to
19 remove the person from the shared gang database. The petition
20 may be brought by the person or the person's attorney, or if
21 the person is under 18 years of age, by his or her parent or
22 guardian or an attorney on behalf of the parent or guardian.

23 (b) The petition shall be filed and served within 90
24 calendar days of the agency's mailing or personal service of
25 the verification of the decision to deny the request for

1 removal from the shared gang database or the date that the
2 request is deemed denied under subsection (b) of Section 15 of
3 this Act. The petition shall be filed in either the circuit
4 court of the county in which the local law enforcement agency
5 is located or, if the person resides in this State, in the
6 county in which the person resides. A copy of the petition
7 shall be served on the agency in person or by first-class mail.
8 Proof of service of the petition on the agency shall be filed
9 in circuit court.

10 (c) The evidentiary record for the court's determination of
11 the petition shall be limited to the agency's statement of the
12 basis of its designation made under Section 10 of this Act, and
13 the documentation provided to the agency by the person
14 contesting the designation under Section 15 of this Act.

15 (d) If, upon de novo review of the record and any arguments
16 presented to the court, the court finds that the law
17 enforcement agency has failed to establish the person's active
18 gang membership, associate status, or affiliate status by clear
19 and convincing evidence, the court shall order the law
20 enforcement agency to remove the name of the person from the
21 shared gang database.

22 (e) The court shall notify the person of the appearance
23 date by mail or personal delivery. There is a \$25 fee for
24 filing a petition under this Section, which shall be retained
25 regardless of the outcome of the petition. If the court finds
26 in favor of the person, the amount of the fee shall be

1 reimbursed to the person by the agency.

2 Section 25. Gang Database Technical Advisory Task.

3 (a) There is created the Gang Database Technical Advisory
4 Task Force to study the use, operation, and oversight of gang
5 databases and shared gang databases in this State. The Task
6 Force shall assist the Department as required in Section
7 2605-391 of the Department of State Police Law of the Civil
8 Administrative Code of Illinois to adopt appropriate rules
9 governing the use, operation, and oversight of shared gang
10 databases and assist in outlining best practices by law
11 enforcement agencies.

12 (b) The Task Force shall consist of the following members:

13 (1) the Director of State Police, or his or her
14 designee;

15 (2) the Attorney General, or his or her designee;

16 (3) the Executive Director of the Illinois Criminal
17 Justice Information Authority, or his or her designee;

18 (4) 2 members of the Senate, appointed by the President
19 of the Senate;

20 (5) 2 members of the Senate, appointed by the Minority
21 Leader of the Senate;

22 (6) 2 members of the House of Representatives,
23 appointed by the Speaker of the House of Representatives;

24 (7) 2 members of the House of Representatives,
25 appointed by the Minority Leader of the House of

1 Representatives;

2 (8) a member from a statewide organization that
3 specializes in civil or human rights, appointed by the
4 President of the Senate; and

5 (9) a member from a statewide organization that
6 specializes in gang violence intervention, appointed by
7 the Speaker of the House of Representatives.

8 (c) The Task Force shall appoint a chairperson from among
9 the members appointed. Members of the Task Force shall receive
10 no compensation but shall be reimbursed for necessary expenses
11 incurred in the performance of their duties.

12 (d) The Task Force shall submit a written report of its
13 findings and recommendations to the General Assembly and the
14 Governor on or before June 1, 2020. The report to the General
15 Assembly shall be filed with the Clerk of the House of
16 Representatives and the Secretary of the Senate in electronic
17 form only, in the manner that the Clerk and the Secretary shall
18 direct.

19 (e) This Section is repealed on July 1, 2020.

20 Section 105. The Department of State Police Law of the
21 Civil Administrative Code of Illinois is amended by adding
22 Sections 2605-391, 2605-392, 2605-393, and 2605-395 as
23 follows:

24 (20 ILCS 2605/2605-391 new)

1 Sec. 2605-391. Rules and oversight; shared gang databases.

2 (a) The Department, with the advice of the Gang Database
3 Technical Advisory Task Force created under Section 30 of the
4 Law Enforcement Gang Database Information Act, shall adopt
5 rules governing the use, operation, and oversight of shared
6 gang databases. The rules adopted by the Department shall, at
7 minimum, ensure the following:

8 (1) the system integrity of a shared gang database;

9 (2) all law enforcement agency and criminal justice
10 agency personnel who access a shared gang database undergo
11 comprehensive and standardized training on the use of
12 shared gang databases and related policies and procedures;

13 (3) proper criteria are established for supervisory
14 reviews of all database entries and regular reviews of
15 records entered into a shared gang database;

16 (4) reasonable measures are taken to locate equipment
17 related to the operation of a shared gang database in a
18 secure area in order to preclude access by unauthorized
19 personnel;

20 (5) law enforcement agencies and criminal justice
21 agencies notify the Department of any missing equipment
22 that could potentially compromise a shared gang database;

23 (6) personnel authorized to access a shared gang
24 database are limited to sworn law enforcement personnel,
25 non-sworn law enforcement support personnel, or
26 non-criminal justice technical or maintenance personnel,

1 including information technology and information security
2 staff and contract employees, who have been subject to
3 character or security clearance and who have received
4 approved training;

5 (7) any records contained in a shared gang database are
6 not disclosed for employment or military screening
7 purposes; and

8 (8) any records contained in a shared gang database are
9 not disclosed for purposes of enforcing federal
10 immigration law, unless required by State or federal
11 statute, rule, or regulation.

12 (b) The rules adopted by the Department shall include, but
13 not be limited to, establishing the following:

14 (1) policies and procedures for entering, reviewing,
15 and purging documentation;

16 (2) criteria for designating a person as a gang member
17 or associate that are unambiguous, not over broad, and
18 consistent with empirical research on gangs and gang
19 membership;

20 (3) retention periods for information about a person in
21 a shared gang database that is consistent with empirical
22 research on the duration of gang membership;

23 (4) criteria for designating an organization as a
24 criminal street gang and retention periods for information
25 about criminal street gangs;

26 (5) policies and procedures for notice to a person in a

1 shared gang database including policies and procedures for
2 when notification would compromise an active criminal
3 investigation or the health or safety of a minor;

4 (6) policies and procedures for responding to an
5 information request, a request for removal, or a petition
6 for removal under Sections 10 and 15 of the Law Enforcement
7 Gang Database Information Act including policies and
8 procedures for a request or petition that could compromise
9 an active criminal investigation or the health or safety of
10 a minor;

11 (7) policies and procedures for sharing information
12 from a shared gang database with a federal agency,
13 multi-state agency, or agency of another state that is
14 otherwise denied access including sharing of information
15 with a partner in a joint task force; and

16 (8) implementation of supervisory review procedures
17 and periodic record reviews by law enforcement agencies and
18 criminal justice agencies, and reporting of the results of
19 those reviews to the Department.

20 (c) The Department, with the advice and recommendations
21 from the Gang Database Technical Advisory Task Force, no later
22 than January 1, 2021, shall adopt rules to provide for periodic
23 audits of the Statewide Organized Criminal Gang Database to
24 ensure the accuracy, reliability, and proper use. The
25 Department shall mandate the purge of any information for which
26 a user agency cannot establish adequate support. The

1 Department, with the advice of the Gang Database Technical
2 Advisory Task Force, shall develop and implement standardized
3 periodic training for everyone with access to the Statewide
4 Organized Criminal Gang Database.

5 (20 ILCS 2605/2605-392 new)

6 Sec. 2605-392. Department of State Police report; shared
7 gang databases. Beginning January 1, 2020, and annually on
8 January 1 thereafter, the Department shall publish an annual
9 report on the use of shared gang databases, including the
10 Statewide Organized Criminal Gang Database.

11 (1) The report shall include, in a format developed by the
12 Department that contains, by ZIP Code, referring agency, race,
13 gender, and age, the following information for each user
14 agency:

15 (A) The number of persons included in the Statewide
16 Organized Criminal Gang Database on the day of reporting.

17 (B) The number of persons added to the Statewide
18 Organized Criminal Gang Database during the immediately
19 preceding 12 months.

20 (C) The number of requests for removal of information
21 about a person from a gang database under Section 15 of the
22 Law Enforcement Gang Database Information Act that were
23 granted during the immediately preceding 12 months.

24 (D) The number of petitions for removal of information
25 about a person from a gang database under Section 20 of the

1 Law Enforcement Gang Database Information Act adjudicated
2 in the immediately preceding 12 months, including their
3 dispositions.

4 (E) The number of persons whose information was removed
5 from the Statewide Organized Criminal Gang Database due to
6 the expiration of a retention period during the immediately
7 preceding 12 months.

8 (F) The number of times a law enforcement agency did
9 not provide notice or documentation described in Section 10
10 of the Law Enforcement Gang Database Information Act
11 because providing that notice or documentation would
12 compromise an active criminal investigation.

13 (G) The number of times a law enforcement agency did
14 not provide notice or documentation described in Section 10
15 of the Law Enforcement Gang Database Information Act
16 because providing that notice or documentation would
17 compromise the health or safety of the designated minor, in
18 the immediately preceding 12 months.

19 (2) The Department shall post this annual report on its
20 website.

21 (20 ILCS 2605/2605-393 new)

22 Sec. 2605-393. Purge; moratorium of shared gang databases.

23 (a) The Department shall instruct each agency to purge from
24 a shared gang database any record of a person entered into the
25 database designated as a suspected gang member, associate, or

1 affiliate that does not meet criteria for entry or whose entry
2 was based upon the following criteria: jail classification,
3 frequenting gang neighborhoods, or on the basis of an untested
4 informant. Unsupported criteria shall be purged and the records
5 of a person shall be purged if the remaining criteria are not
6 sufficient to support the person's designation. After the purge
7 is completed, the shared gang database shall be examined using
8 a statistically valid sample, consistent with professional
9 auditing standards to ensure that all fields in the database
10 are accurate.

11 (b) Beginning January 1, 2019, any shared gang database
12 operated by law enforcement in this State shall be under a
13 moratorium. During the moratorium, data shall not be added to
14 the database. Data in the database shall not be accessed by
15 participating agencies or shared with other entities. The
16 moratorium on a shared gang database shall not be lifted until
17 the Attorney General certifies that the purge required in
18 subsection (a) of this Section has been completed. After the
19 purge has been completed and before the Department adopts the
20 rules required by Section 2605-391 of this Act, new data may be
21 entered, provided the new data meets the criteria established
22 by the conditions of the purge.

23 (20 ILCS 2605/2605-395 new)

24 Sec. 2605-395. Suspension of access to shared gang
25 database.

1 (a) The Department shall temporarily suspend access to a
2 shared gang database system or revoke access to a shared gang
3 database system for any individual who shares information from
4 a shared gang database for employment or military screening
5 purposes.

6 (b) The Department shall temporarily suspend access to a
7 shared gang database system or revoke access to a shared gang
8 database system for an individual who shares information from a
9 shared gang database for federal immigration law purposes,
10 unless required by State or federal statute, rule, or
11 regulation."