

By: Guillen

H.B. No. 5097

A BILL TO BE ENTITLED

AN ACT

relating to access to and use of certain criminal history record information.

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

SECTION 1. Section 411.095, Government Code, is amended by amending Subsection (b) to read as follows:

(b) The consumer credit commissioner may not release or disclose to any person criminal history record information obtained from the Federal Bureau of Investigation under Subsection (a-1)(1) except to the person who is the subject of the criminal history record information. The consumer credit commissioner may not release or disclose criminal history record information obtained under Subsection (a-1)(2) except:

(1) on court order;

(2) to the person who is the subject of the criminal history record information;

(3) with the consent of the person who is the subject of the criminal history record information; or

(4) in a hearing where the Office of Consumer Credit Commissioner is a party.

SECTION 2. Section 411.106, Government Code, is amended by amending subsection (a) to read as follows:

(a) The Texas Department of Insurance is entitled to obtain criminal history record information as provided by Subsection (a-1)

1 that relates to a person who is:

2 (1) an applicant for a license, permit, certificate of
3 authority, certificate of registration, or other authorization
4 issued by the Texas Department of Insurance to engage in an activity
5 regulated under the Insurance Code, including a person who is:

6 (A) an applicant for approval of an acquisition,
7 change, or divestiture of control of a domestic insurer under
8 Chapter 823, Insurance Code;

9 (B) an applicant for or holder of a license or
10 registration under Chapter 981, Insurance Code, or associated with
11 an entity that is an applicant for or holder of such a license or
12 registration;

13 (C) an applicant for or holder of a license or
14 registration under Chapter 1111A, Insurance Code, or associated
15 with an entity that is an applicant for or holder of such a license
16 or registration;

17 (D) an applicant for or holder of a license or
18 registration under Chapter 2651, Insurance Code, or associated with
19 an entity that is an applicant for or holder of such a license or
20 registration;

21 (E) an applicant for or holder of a license or
22 registration under Chapter 2652, Insurance Code;

23 (F) an applicant for or holder of a license or
24 registration under Chapter 4051, Insurance Code, or associated with
25 an entity that is an applicant for or holder of such a license or
26 registration;

27 (G) an applicant for or holder of a license or

1 registration under Chapter 4053, Insurance Code, or associated with
2 an entity that is an applicant for or holder of such a license or
3 registration;

4 (H) an applicant for or holder of a license or
5 registration under Chapter 4054, Insurance Code, or associated with
6 an entity that is an applicant for or holder of such a license or
7 registration;

8 (I) an applicant for or holder of a license or
9 registration under Chapter 4056, Insurance Code, or associated with
10 an entity that is an applicant for or holder of such a license or
11 registration;

12 (J) an applicant for or holder of a license or
13 registration under Chapter 4101, Insurance Code, or associated with
14 an entity that is an applicant for or holder of such a license or
15 registration;

16 (K) an applicant for or holder of a license or
17 registration under Chapter 4102, Insurance Code, or associated with
18 an entity that is an applicant for or holder of such a license or
19 registration;

20 (L) an applicant for or holder of a certificate
21 of authority under Chapter 4151, Insurance Code, or associated with
22 an entity that is an applicant for or holder of such a certificate;

23 (M) an applicant for or holder of a license or
24 registration under Chapter 4152, Insurance Code, or associated with
25 an entity that is an applicant for or holder of such a license or
26 registration;

27 (N) an applicant for or holder of a license or

1 registration under Chapter 4153, Insurance Code, or associated with
2 an entity that is an applicant for or holder of such a license or
3 registration;

4 (O) an applicant for or holder of a certificate
5 of registration under Chapter 4201, Insurance Code, or associated
6 with an entity that is an applicant for or holder of such a
7 certificate;

8 (P) associated with an entity that is an
9 applicant for or holder of a certification under Chapter 4202,
10 Insurance Code;

11 (Q) associated with an entity that is an
12 applicant for or holder of a registration under Chapter 7001,
13 Insurance Code;

14 (R) an applicant for or holder of a license or
15 registration under Chapter 91, Labor Code, or associated with an
16 entity that is an applicant for or holder of such a license or
17 registration; and

18 (S) associated with an entity that is an
19 applicant for or holder of a certificate of approval under Chapter
20 407A, Labor Code; or

21 (2) a corporate officer or director of an insurance
22 company regulated by the Texas Department of Insurance, including a
23 company that is:

24 (A) an applicant for or holder of a certificate
25 of authority under Chapter 801, Insurance Code;

26 (B) an applicant for or holder of a certificate
27 of authority under Chapter 822, Insurance Code;

1 (C) an applicant for or holder of a certificate
2 of authority under Chapter 841, Insurance Code;

3 (D) an applicant for or holder of a certificate
4 of authority under Chapter 843, Insurance Code;

5 (E) an applicant for or holder of a certificate
6 of authority under Chapter 844, Insurance Code;

7 (F) an applicant for or holder of a certificate
8 of authority under Chapter 845, Insurance Code;

9 (G) an applicant for or holder of a certificate
10 of authority under Chapter 846, Insurance Code;

11 (H) an applicant for or holder of a certificate
12 of authority under Chapter 848, Insurance Code;

13 (I) an applicant for or holder of a certificate
14 of authority under Chapter 964, Insurance Code;

15 (J) an applicant for or holder of a certificate
16 of authority under Chapter 1305, Insurance Code; and

17 (K) an applicant for or holder of a certificate
18 of authority under Title 11, Insurance Code.

19 SECTION 3. Section 411.1143, Government Code, is amended by
20 amending Subsection (a-1) to read as follows:

21 (a-1) Criminal history record information the Health and
22 Human Services Commission or the office of inspector general is
23 authorized to obtain under Subsection (a) includes criminal history
24 record information relating to:

25 (1) a person ~~[with a direct or indirect ownership or~~
26 ~~control interest, as defined by 42 C.F.R. Section 455.101, in a~~
27 ~~provider of five percent or more]~~ who, with an interest of five

1 percent or more:

2 (A) Has a direct or an indirect ownership
3 interest or any combination thereof of 5 percent or more in the
4 entity;

5 (B) Is the owner of a whole or part interest in
6 any mortgage, deed of trust, note, or other obligation secured, in
7 whole or in part, by the entity or any of the property assets
8 thereof, if such interest is equal to or exceeds 5 percent of the
9 total property and assets of the entity;

10 (C) Is an officer or a director of the entity;

11 (D) Is a partner in the entity if the entity is
12 organized as a partnership;

13 (E) Is an agent of the entity; or

14 (F) Is a managing employee of the entity; and

15 (2) a person whose information is required to be
16 disclosed in accordance with 42 C.F.R. Part 1001.

17 SECTION 4. Section [411.122](#), Government Code, is amended by
18 amending Subsection (d) to read as follows:

19 (d) The following state agencies are subject to this
20 section:

21 (1) Texas Appraiser Licensing and Certification
22 Board;

23 (2) Texas Board of Architectural Examiners;

24 (3) Texas Board of Chiropractic Examiners;

25 (4) State Board of Dental Examiners;

26 (5) Texas Board of Professional Engineers and Land
27 Surveyors;

- 1 (6) Texas Funeral Service Commission;
- 2 (7) Texas Board of Professional Geoscientists;
- 3 (8) Health and Human Services Commission, except as
- 4 provided by Section [411.110](#), and agencies attached to the
- 5 commission;
- 6 (9) Texas Department of Licensing and Regulation;
- 7 (10) Texas Commission on Environmental Quality;
- 8 (11) Executive Council of Physical Therapy and
- 9 Occupational Therapy Examiners;
- 10 (12) Texas Optometry Board;
- 11 (13) Texas State Board of Pharmacy;
- 12 (14) Texas State Board of Plumbing Examiners;
- 13 (15) Texas Behavioral Health Executive Council [~~Texas~~
- 14 ~~State Board of Examiners of Psychologists~~];
- 15 (16) Texas Real Estate Commission;
- 16 (17) Texas Department of Transportation;
- 17 (18) State Board of Veterinary Medical Examiners;
- 18 (19) Texas Department of Housing and Community
- 19 Affairs;
- 20 (20) secretary of state;
- 21 (21) state fire marshal;
- 22 (22) Texas Education Agency;
- 23 (23) Department of Agriculture; and
- 24 (24) Texas Department of Motor Vehicles.

25 SECTION 5. Section [411.12506](#), Government Code, is amended

26 by amending Subsection (a) to read as follows:

- 27 (a) The Texas Commission on Environmental Quality is

entitled to obtain criminal history record information as provided by Subsection (b) that relates to ~~a person who~~:

(1) a person who is an applicant for:

~~[is an applicant for a license, permit, or registration under:]~~

(A) a water supply system operator license under Section 37.003, Water Code, as defined by Section 341.001(12), Health and Safety Code, and required by Section 341.033(a) of that code;

(B) a backflow prevention assembly tester license to repair or test the installation or operation of backflow prevention assemblies under Section 37.003, Water Code, as described in Section 341.034(c), Health and Safety Code;

(C) a customer service inspector license to inspect homes and businesses to identify potential or actual cross-connections or other contaminant hazards in public water systems under Section 37.003, Water Code, as described in Section 341.034(d), Health and Safety Code;

(D) a municipal solid waste operator license to supervise the operation or maintenance of solid waste facilities under Section 37.003, Water Code, as described in Section 361.027, Health and Safety Code;

(E) an on-site sewage facility apprentice or installer license to construct, install, alter, or extend an on-site sewage disposal system under Section 366.071(a), Health and Safety Code;

(F) an on-site sewage facility maintenance

provider or technician license to service, maintain, or repair an on-site sewage disposal system under Section 37.003, Water Code, as described in Section 366.071(a), Health and Safety Code;

(G) an on-site sewage facility designated representative license to work for an authorized agent to review permit applications, site evaluations, or planning materials or inspect on-site sewage disposal systems under Section 37.003, Water Code, as described in Section 366.071(b), Health and Safety Code;

(H) an on-site sewage facility site evaluator license to conduct preconstruction site evaluations, including visiting a site and performing a soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an on-site sewage disposal system under Section 37.003, Water Code, as described in Section 366.071(c), Health and Safety Code;

(I) a persons who inspects an irrigation system for a municipality or water district under Section 1903.251(a)(4), Occupations Code;

(J) a person who sells, designs, installs, maintains, alters, repairs, or services irrigation systems, provides consulting services relating to an irrigation system, or connects an irrigation system to a water supply under Section 37.003, Water Code, as described in Section 1903.251(a)(1)-(3), Occupations Code;

(K) a person who installs, exchanges, services, and repairs residential, commercial, or industrial water treatment equipment and appliances under Section 1904.052, Occupations Code;

(L) a person who supervises a corrective action

1 plan for a leaking petroleum storage tank under Section 26.366,
2 Water Code;

3 (M) a person who supervises the installation,
4 repair, or removal of an underground storage tank under Section
5 37.003, Water Code, as described in Section 26.456 of that Code; or

6 (N) a person who performs process control
7 activities at a sewage treatment facility under Section 26.0301(c),
8 Water Code.

9 (O) a person who supervises the maintenance of a
10 sewage collection system under Section 26.0301(c), Water Code.

11 ~~[(B) Chapter 1903, Occupations Code; or~~

12 ~~(C) Chapters 26 and 37, Water Code;]~~

13 (2) is the holder of a license~~[, permit, or~~
14 ~~registration]~~ under a provision listed in Subdivision (1); or

15 (3) requests a determination of eligibility for a
16 license~~, permit, or registration]~~ from the agency under a provision
17 listed in Subdivision (1).

18 SECTION 6. Section 411.12508, Government Code, is amended
19 by amending Subsection (a) to read as follows:

20 (a) The manufactured housing division of the Texas
21 Department of Housing and Community Affairs is entitled to obtain
22 criminal history record information as provided by Subsection (b)
23 that relates to a person who is an applicant or holder of a license
24 for:

25 (1) ~~[an applicant for or holder of]~~ a manufacturer's
26 license under Section 1201.101(a), Occupations Code; [Chapter
27 1201, Occupations Code, or]

(2) a retailer's license under Section 1201.101(b),
Occupations Code;

(3) a broker's license under Section 1201.101(c) or
(e), Occupations Code;

(4) an installer's license under Section 1201.101(d),
Occupations Code;

(5) a salesperson's license under Section 1201.101(f),
Occupations Code; or

(6) an owner, officer, or related person or manager of
a person described by Subdivision (1).

SECTION 7. Section 411.12509, Government Code, is amended
by amending Subsection (a) to read as follows:

(a) The state fire marshal is entitled to obtain criminal
history record information as provided by Subsection (b) that
relates: ~~[to a person who is an applicant for a license issued by
the state fire marshal.]~~

(1) a person who is an applicant for or holder of a
fire extinguisher license or apprentice permit under Chapter 6001,
including a fire extinguisher license Type PL, Type A, Type B, and
Type K, fire extinguisher apprentice permit;

(2) a person who is an applicant for or holder of a
fire alarm planning superintendent or fire alarm technician license
Chapter 6002, Insurance Code Section 6002.002, including fire alarm
technician license, fire alarm monitoring technician license, fire
alarm instructor, residential fire alarm superintendent single
station license, residential fire alarm superintendent license,
fire alarm planning superintendent license, residential fire alarm

1 technician license, and training school approval;

2 (3) a person who is an applicant for or holder of a
3 fire protection sprinkler system contractor or fire sprinkler
4 responsible managing employee as defined by Insurance Code Section
5 6003.001, including Responsible Managing Employee-General,
6 Responsible Managing Employee-Dwelling, Responsible Managing
7 Employee-Underground, and Responsible Managing Employee-General
8 Inspector; or

9 (4) the applicant for or holder of a license or
10 registration under Chapter 2154, Occupations Code, Subchapter C,
11 including pyrotechnic operator's license, pyrotechnic special
12 effects operator's license, and flame effects operator's license.

13 SECTION 8. Section 411.12517, Government Code, is amended
14 by adding Subsections (b), (g), and (h), and amending Subsections
15 (a), (c), (d), (e), and (f) to read as follows:

16 (a) The Texas State Board of Pharmacy is entitled to obtain
17 criminal history record information as provided by Subsection (c)
18 ~~[(b)]~~ that relates to a person who in addition to the information
19 required for issuance of a license, certificate, registration, or
20 permit by the Texas State Board of Pharmacy, or for employment with
21 the Texas State Board of Pharmacy, shall submit to the Texas State
22 Board of Pharmacy a complete set of fingerprints and:

23 (1) is an applicant for or holder of a ~~[license,~~
24 ~~certificate,~~] registration as a pharmacist-intern ~~[, permit, or~~
25 ~~other authorization]~~ under Section 557.001 ~~[Chapters 557, 558, 559,~~
26 ~~and 568]~~, Occupations Code;

27 (2) is an applicant for or holder of a license by

1 examination to practice pharmacy under Section 558.051 [~~Class A,~~
2 ~~Class B, Class C, Class D, or Class E~~ pharmacy license under
3 ~~Chapters 560 and 561~~], Occupations Code;

4 (3) is an applicant for or a holder of a license by
5 reciprocity to practice pharmacy under Section 558.101,
6 Occupations Code;

7 (4) is an applicant for or a holder of a provisional
8 license to practice pharmacy under Sections 558.151 and 558.154,
9 Occupations Code;

10 (5) is an applicant for or a holder of a registration
11 as a pharmacy technician under Section 568.002, Occupations Code;

12 (6) is an applicant for or a holder of a registration
13 as a pharmacy technician trainee under Section 568.002, Occupations
14 Code;

15 (7) [~~(3)~~] requests a determination of eligibility for
16 a license, certificate, registration, permit, or other
17 authorization from the Texas State Board of Pharmacy under Sections
18 53.102 and 53.104, Occupations Code; or

19 (8) [~~(4)~~] is an applicant for employment at or current
20 employee of the Texas State Board of Pharmacy.

21 (b) The Texas State Board of Pharmacy is entitled to obtain
22 criminal history record information as provided by Subsection (c)
23 that relates to a person who is a partner, an officer, a director, a
24 managing employee, or owner or person who controls the owner and is
25 an applicant for or holder of the following:

26 (1) a Class A pharmacy license or community pharmacy
27 under Section 560.051, Occupations Code;

1 (2) a Class B pharmacy license or nuclear pharmacy
2 under Section 560.051, Occupations Code;

3 (3) a Class C pharmacy license or institutional
4 pharmacy license issued to a pharmacy located in an inpatient
5 facility, including a hospital, a hospital maintained or operated
6 by the state, a hospice inpatient facility or an ambulatory
7 surgical center under Section 560.051, Occupations Code;

8 (4) a Class D pharmacy license or clinic pharmacy
9 under Section 560.051, Occupations Code; or

10 (5) a Class E pharmacy license or nonresident pharmacy
11 license issued to a pharmacy located in another state under Section
12 560.051, Occupations Code.

13 (c) [~~(b)~~] Subject to Section 411.087 and consistent with
14 the public policy of this state, the Texas State Board of Pharmacy
15 is entitled to:

16 (1) obtain through the Federal Bureau of Investigation
17 criminal history record information maintained or indexed by that
18 bureau that pertains to a person described by Subsections
19 [~~Subsection~~] (a) and (b); and

20 (2) obtain from the department or any other criminal
21 justice agency in this state criminal history record information
22 maintained by the department or that criminal justice agency that
23 relates to a person described by Subsections [~~Subsection~~] (a) and
24 (b).

25 (d) [~~(c)~~] The Texas State Board of Pharmacy may not release
26 or disclose to any person criminal history record information
27 obtained from the Federal Bureau of Investigation under Subsection

1 (c)(1) [~~(b)(1)~~]. Criminal history record information obtained by
2 the Texas State Board of Pharmacy under Subsection (c)(2) [~~(b)(2)~~]
3 may not be released or disclosed to any person except on court
4 order, with the written consent of the person who is the subject of
5 the criminal history record information, or as provided by
6 Subsection (e) [~~(d)~~].

7 (e) [~~(d)~~] The Texas State Board of Pharmacy is not
8 prohibited from disclosing criminal history record information
9 obtained under Subsection (c)(2) [~~(b)(2)~~] in a criminal proceeding
10 or in a hearing conducted by the Texas State Board of Pharmacy or
11 the State Office of Administrative Hearings.

12 (f) [~~(e)~~] The Texas State Board of Pharmacy shall destroy
13 criminal history record information obtained under this section
14 after a final determination is made in the matter for which the
15 information was obtained.

16 (g) The failure or refusal of an employee of or applicant to
17 the Texas State Board of Pharmacy to provide the following on
18 request constitutes good cause for dismissal or refusal to hire:

19 (1) a complete set of fingerprints;
20 (2) a true and complete name; or
21 (3) other information necessary for a law enforcement
22 entity to obtain criminal history record information.

23 (h) In addition to the information required by Section
24 559.003, Occupations Code, a license holder who previously has not
25 submitted a complete set of fingerprints as part of an application
26 for a license as listed in Subsection (a), shall submit to the
27 Texas State Board of Pharmacy with the completed application for

1 renewal of a license to practice pharmacy a complete set of
2 fingerprints. Failure to submit a complete set of fingerprints
3 under this section may result in a suspension or refusal to renew
4 the license by the Texas State Board of Pharmacy.

5 SECTION 9. The title to Section 503.308, Occupations Code,
6 is amended to read as follows:

7 ASSOCIATE ~~[TEMPORARY]~~ LICENSE.

8 SECTION 10. Section 503.308, Occupations Code, is amended
9 by amending Subsection (a) to read as follows:

10 (a) The executive council shall ~~[by rule may]~~ provide for
11 the issuance of an associate ~~[a temporary]~~ license. Rules adopted
12 under this subsection must provide a time limit for the period an
13 associate ~~[a temporary]~~ license is valid.

14 (b) The executive council by rule may adopt a system under
15 which an associate ~~[a temporary]~~ license may be issued to a person
16 who: (1) meets all of the academic and examination requirements for
17 licensing; and (2) enters into a supervisory agreement with a
18 supervisor approved by the executive council.

19 SECTION 11. Section 1201.003, Occupations Code, is amended
20 by amending Subsections (17), (22), (23), and (26) to read as
21 follows:

22 (17) "License holder" or "licensee" means a person
23 listed on a Manufactured Housing Division License application who
24 holds a department-issued license as a manufacturer, retailer,
25 broker, salesperson, or installer.

26 (22) "Person" means an individual or a partnership,
27 company, corporation, or association~~[, or other group, however~~

1 ~~organized~~].

2 (23) "Related Person" means an an ~~[person]~~ individual
3 who:

4 (A) directly participates in management or
5 policy decisions; and

6 (B) is designated by an entity and satisfies the
7 requirements of Sections [1201.104](#) and [1201.113](#) on behalf of the
8 entity, if the entity is licensed or seeking licensure under this
9 chapter.

10 (26) "Salesperson" means a person who, as an employee
11 ~~[or agent]~~ of a retailer or broker, sells or offers to sell
12 manufactured housing to a consumer.

13 SECTION 12. This Act takes effect September 1, 2025.