

## BILL ANALYSIS

Senate Research Center  
78R8249 MXM-F

H.B. 1075  
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Government Organization  
4/22/2003  
Engrossed

### DIGEST AND PURPOSE

Currently, there is no provision that authorizes state agencies to obtain criminal background checks on prospective employees of information technology departments. The Department of Information Resources recommended to the legislature that state agencies perform criminal background checks through the Department of Public Safety for prospective personnel who manage sensitive data. H.B. 1075 authorizes criminal background checks on employees, applicants for employment, contractors and other personnel in the information technology departments within state government.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1405, as follows:

Sec. 411.1405. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE AGENCIES; INFORMATION TECHNOLOGY EMPLOYEES. (a) Defines “information resources” and “state agency.”

(b) Provides that to the extent consistent with Subsection (e), a state agency is entitled to obtain from the Department of Public Safety (DPS) the criminal history record information maintained by DPS that relates to a person who meets certain conditions.

(c) Prohibits a state agency that obtains criminal history record information under this section from releasing or disclosing the information or any documents or other records derived from the information except by meeting certain criteria.

(d) Requires a state agency and the affected contractor or subcontractor to destroy criminal history record information obtained under this section that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

(e) Prohibits a state agency from obtaining criminal history record information under this section unless the state agency first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. Requires the attorney general to review the policies and procedures for compliance with due process and other legal requirements before adoption by the state agency. Authorizes the attorney general to charge the state agency a fee to cover the cost of the review. Requires the policies and procedures adopted under this subsection to provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on certain factors.

(f) Provides that a criminal history record information provision in another law that is more specific to a state agency, including Section 411.089, prevails over this section to the extent of any conflict.

SECTION 2. Effective date: September 1, 2003.