

## **BILL ANALYSIS**

C.S.H.B. 2208

By: Allen

Public Health

Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, Section 411.125 of the Texas Government Code provides that the Board of Nurse Examiners is entitled to receive criminal background checks from the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) for any applicant for licensure or any person requesting a determination of eligibility for license from the board. This bill relates to the authority of the Board of Nurse Examiners to request and receive the DPS and FBI criminal history information of applicants for licensure as a registered nurse and for currently licensed registered nurses seeking to renew their licenses. The bill clarifies the extent of the Board's authority to require new license applicants or currently licensed nurses to submit to the Board a complete and legible set of fingerprints necessary to obtain criminal history information from the Federal Bureau of Investigation and Texas Department of Public Safety.

### **RULEMAKING AUTHORITY**

It is the author's opinion that rulemaking authority is expressly granted to the Board of Nurse Examiners in SECTION 2 (Section 301.2511, Occupations Code) of this bill.

### **ANALYSIS**

This bill creates Section 301.1615, Texas Occupations Code and restates the Board's authority to receive FBI data that is currently contained in Texas Government Code, Section 411.125. Further, the section allows that the records must only be used by the Board and may not be disclosed to any other person other than by court order or to other nursing boards who are members of the nurse licensure compact under Chapter 304, Texas Occupations Code. Finally, Section 301.1615 provides the applicant or license holder a right to an administrative hearing if the Board proposes adverse licensure action as a result of criminal history information.

This bill creates Section 301.2511, of the Texas Occupations Code which clarifies the board's authority to obtain FBI fingerprint cards from new applicants for licensure. The section requires submission of a complete and legible set of fingerprints for the purpose of obtaining criminal history records. Section 301.2511 provides that it is ground to deny an applicant licensure for failing to submit the fingerprint card and specifically conditions the granting of a license on the receipt of the criminal history information. The bill specifies that the board may adopt rules to develop a system for obtaining criminal history information that includes requiring persons enrolled, or planning to enroll, in nursing school to submit to the Board the required fingerprint cards along with a fee.

In addition the bill creates section 301.3011, of the Texas Occupations Code which grants the board the authority to require the submission of FBI fingerprint cards for nurses seeking to renew an unexpired nursing license. Section 301.3011 authorizes the Board to refuse to renew a license to a person who does not comply and conditions renewal of the license on receipt of the criminal history information. Sections 301.1615, 301.2511 and 301.3011 will apply only to an application for license or renewal of a license filed with the Board after the effective date of the Act.

The bill also amends Section 411.125(a) of the Texas Government Code to specifically allow the Board to receive state and federal criminal history information regarding its current license holders.

### **EFFECTIVE DATE**

September 1, 2003.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modifies the original by amending Section 411.125(a) of the Texas Government Code to specifically allow the Board to receive state and federal criminal history information regarding its current license holders.