

BILL ANALYSIS

C.S.H.B. 2622
By: Allen
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Subchapter F, Chapter 411 of the Government Code contains sections that authorize the Texas Department of Public Safety (DPS) to disseminate criminal history record information to specific non-criminal justice agencies for employment, licensing, or other specific purposes. Most of these agencies have access to the entire criminal history record, but several agencies have access to convictions records only, or to records relating just to certain charges. Since all convictions records have subsequently become a matter of public record, these agencies in some cases have less access specified in law than does the general public. Further, there are often open arrests in the state criminal history repository for which no disposition has been reported to DPS, but for which a disposition may have occurred. Information on open arrests would prove beneficial for a licensing agency doing a suitability background check on its applicant or licensee, and would allow the agency to do further research on those arrests. Also, there are several agencies who still have access to criminal history records through statutes other than Chapter 411. Because these agency-specific statutes may not include the language in Chapter 411 which regulates the dissemination of criminal history information, the FBI has denied several of these agencies access to federal criminal history records. The purpose of C.S.H.B. 2622 is to remedy these problems.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2622 is “clean-up” legislation that will help equalize levels of access to criminal history record information for agencies that have access under Chapter 411 of the Government Code. C.S.H.B. 2622 moves statutory references regarding access to criminal history records by non-criminal justice agencies to Chapter 411, ensuring that the FBI approves these agencies’ requests and centralizing statutes governing access to criminal history record information maintained by the DPS.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2622 modifies the original by adding subsection (b) to Section 411.084, Government Code, to restrict the release or disclosure of criminal history record information obtained from the FBI to a governmental entity or as authorized by federal statute, rule, or executive order.

The substitute adds language to Section 411.093, Government Code, to clarify that the Texas Department of Licensing and Regulation (the department) may obtain criminal history record information that relates to a person who is an applicant for a license, certificate, registration, title, or permit issued by the department.

The substitute differs from the original by amending Section 156.206(b), Finance Code, to provide that each applicant for a mortgage broker license or a loan officer license must submit fingerprint and other information necessary to implement that section, which the commissioner may then submit to the Federal Bureau of Investigation. The Department of Public Safety is designated to be the recipient of the criminal history record information. The substitute repeals the finance commission's specific rulemaking authority with regard to this subject.

The substitute adds Section 156.206(d) to the Finance Code, to provide that national criminal history record information obtained from the Federal Bureau of Investigation may only be released or disclosed to a government entity or as authorized by federal statute, rule, or executive order, and makes a conforming change to proposed Section 411.1385, Government Code.

The original bill was not drafted by the Legislative Council. The substitute is a Legislative Council draft, and includes many nonsubstantive changes to put the bill into standard format.

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