

1 AN ACT

2 relating to criminal history record information for state agency
3 information technology personnel.

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

5 SECTION 1. Subchapter F, Chapter 411, Government Code, is
6 amended by adding Section 411.1405 to read as follows:

7 Sec. 411.1405. ACCESS TO CRIMINAL HISTORY RECORD
8 INFORMATION: STATE AGENCIES; INFORMATION TECHNOLOGY EMPLOYEES.

9 (a) In this section:

10 (1) "Information resources" and "information
11 resources technologies" have the meanings assigned by Section
12 2054.003.

13 (2) "State agency" means a department, commission,
14 board, office, council, authority, or other agency in the
15 executive, legislative, or judicial branch of state government that
16 is created by the constitution or a statute of this state, including
17 a university system or institution of higher education as defined
18 by Section 61.003, Education Code.

19 (b) To the extent consistent with Subsection (e), a state
20 agency is entitled to obtain from the department the criminal
21 history record information maintained by the department that
22 relates to a person who:

23 (1) is an employee, applicant for employment,
24 contractor, subcontractor, or intern or other volunteer with the

1 state agency or with a contractor or subcontractor for the state
2 agency; and

3 (2) has access to information resources or information
4 resources technologies, other than a desktop computer or telephone
5 station assigned to that person.

6 (c) A state agency that obtains criminal history record
7 information under this section may not release or disclose the
8 information or any documents or other records derived from the
9 information except:

10 (1) by court order;

11 (2) with the consent of the person who is the subject
12 of the information; or

13 (3) to the affected contractor or subcontractor,
14 unless the information was obtained by the department from the
15 Federal Bureau of Investigation.

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

22 (e) A state agency may not obtain criminal history record
23 information under this section unless the state agency first adopts
24 policies and procedures that provide that evidence of a criminal
25 conviction or other relevant information obtained from the criminal
26 history record information does not automatically disqualify an
27 individual from employment. The attorney general shall review the

1 policies and procedures for compliance with due process and other
2 legal requirements before adoption by the state agency. The
3 attorney general may charge the state agency a fee to cover the cost
4 of the review. The policies and procedures adopted under this
5 subsection must provide that the hiring official will determine, on
6 a case-by-case basis, whether the individual is qualified for
7 employment based on factors that include:

8 (1) the specific duties of the position;

9 (2) the number of offenses committed by the
10 individual;

11 (3) the nature and seriousness of each offense;

12 (4) the length of time between the offense and the
13 employment decision;

14 (5) the efforts by the individual at rehabilitation;

15 and

16 (6) the accuracy of the information on the
17 individual's employment application.

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

22 SECTION 2. This Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 1075 was passed by the House on April 3, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1075 was passed by the Senate on May 6, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor