

By: McCall

H.B. No. 1075

Substitute the following for H.B. No. 1075:

By: Marchant

C.S.H.B. No. 1075

A BILL TO BE ENTITLED

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.