

By: McCall

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 or from a law  
21 enforcement agency of the state with access to the information the  
22 criminal history record information maintained by the department  
23 that relates to a person who:

24 (1) is an employee, applicant for employment,

1 contractor, subcontractor, or intern or other volunteer with the  
2 state agency or with a contractor or subcontractor for the state  
3 agency; and

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

7 (c) A state agency that obtains criminal history record  
8 information under this section may not release or disclose 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 (d) A state agency and the affected contractor or  
15 subcontractor shall destroy criminal history record information  
16 that relates to a person after the information is used to make an  
17 employment decision or to take a personnel action relating to the  
18 person who is the subject of the information.

19 (e) A state agency may not obtain criminal history record  
20 information under this section unless the state agency first adopts  
21 policies and procedures that provide that evidence of a criminal  
22 conviction or other relevant information obtained from the criminal  
23 history record information does not automatically disqualify an  
24 individual from employment. The attorney general shall review the  
25 policies and procedures for compliance with due process and other  
26 legal requirements before adoption by the state agency. The  
27 attorney general may charge the state agency a fee to cover the cost

1 of the review. The policies and procedures adopted under this  
2 subsection must provide that the hiring official will determine, on  
3 a case-by-case basis, whether the individual is qualified for  
4 employment based on factors that include:

5 (1) the specific duties of the position;

6 (2) the number of offenses committed by the  
7 individual;

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

9 (4) the length of time between the offense and the  
10 employment decision;

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

12 and

13 (6) the accuracy of the information on the  
14 individual's employment application.

15 (f) A criminal history record information provision in  
16 another law that is more specific to a state agency prevails over  
17 this section to the extent of any conflict.

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