

By: Nelson

S.B. No. 366

A BILL TO BE ENTITLED

AN ACT

relating to the requirement that certain health care professionals submit criminal history record information to the licensing entity that issues or renews a license.

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

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. CRIMINAL BACKGROUND CHECK

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "License" includes a certificate, registration, title, permit, or other authorization issued under this title.

(2) "Licensing entity" means a department, commission, board, office, authority, or other agency of the state that regulates activities and persons under this title.

Sec. 113.002. APPLICABILITY. This chapter applies only to a licensing entity that does not have a more restrictive procedure to perform a criminal background check on an individual licensed by the entity.

Sec. 113.003. CRIMINAL HISTORY. (a) A licensing entity shall require an individual applying for or renewing a license to submit:

(1) a verified affidavit stating that the individual has not been formally charged with any violation of law, excluding:

(A) a case that has been dismissed for a reason

1 other than a technical defect in the charging instrument;

2 (B) a case in which the applicant has been found  
3 not guilty;

4 (C) a minor traffic violation; and

5 (D) an offense for which the individual received  
6 a pardon; or

7 (2) a copy of the individual's criminal history record  
8 information acquired from the Department of Public Safety under  
9 Section 411.083, Government Code.

10 (b) An affidavit or criminal history record information  
11 submitted to a licensing entity under this section is confidential  
12 information for the use of the entity and may not be disseminated by  
13 the entity.

14 Sec. 113.004. RULES. (a) A licensing entity shall adopt  
15 rules to administer this chapter.

16 (b) Rules adopted by a licensing entity under this chapter  
17 must:

18 (1) establish a rational standard under which the  
19 licensing entity may deny the application for issuance of a license  
20 or refuse to renew a license based on an affidavit or criminal  
21 history record information submitted to the entity under this  
22 chapter; and

23 (2) provide a process for an individual to appeal the  
24 licensing entity's denial of a license application or refusal to  
25 renew a license.

26 SECTION 2. Not later than January 1, 2008, a licensing  
27 entity, as defined by Section 113.001, Occupations Code, as added

1 by this Act, shall adopt rules as required by Section 113.004,  
2 Occupations Code, as added by this Act.

3 SECTION 3. This Act applies only to an application for a  
4 license, certificate, registration, title, permit, or other  
5 authorization filed, or the renewal of a license, certificate,  
6 registration, title, permit, or other authorization that expires,  
7 on or after April 1, 2008. An application for a license,  
8 certificate, registration, title, permit, or other authorization  
9 filed before April 1, 2008, or a license, certificate,  
10 registration, title, permit, or other authorization that expires  
11 before April 1, 2008, is governed by the law in effect immediately  
12 before the effective date of this Act, and the former law is  
13 continued in effect for that purpose.

14 SECTION 4. This Act takes effect September 1, 2007.