

BILL ANALYSIS

C.S.H.B. 2519

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Technology, Economic Development & Workforce
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In Texas, certain governmental entities are required to or elect to perform criminal background checks on all current and prospective employees. Doing so helps to protect the integrity of the employing entity and to deter identity theft for the purposes of obtaining employment, which accounts for approximately 2 million cases of identity theft each year. Currently, governmental entities can only use criminal history record information maintained by the Department of Public Safety to perform criminal background checks despite the fact that many private entities can deliver a more thorough background check at a fraction of the cost.

C.S.H.B. 2519 authorizes governmental entities to contract with private vendors who are registered with the state to provide criminal history record information and perform identity verification.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2519 amends the Government Code to authorize an entity authorized or required under state laws to obtain criminal history record information, including national criminal history record information, regarding a person, to elect, as an alternative, to contract with a private vendor registered with the state to obtain both the criminal history record information and identity verification through electronic-based data records.

C.S.H.B. 2519 requires the Texas Commission of Licensing and Regulation by rule to develop criteria for a vendor to register with the state to provide criminal history record information and perform identity verification. The bill requires the commission, in developing the criteria, to consult with law enforcement officials and industry experts to ascertain the latest trends in and technologies available for conducting criminal background checks and identity verification. The bill permits the commission to update annually the criteria based on the latest trends and the latest technologies available in conducting criminal background checks.

C.S.H.B. 2519 prohibits a private vendor from providing criminal history record information or performing identity verification for any entity authorized or required under state law to obtain the information or verification unless the vendor is registered in accordance with the provisions of the bill or a rule adopted under the provisions. The bill requires a vendor to submit to the Texas Department of Licensing and Regulation on the form prescribed by the department an application requesting registration to provide criminal history record information and perform identity verification for entities required or authorized to obtain criminal history record information. The bill requires the department to approve or deny the application not later than the 30th day after the date the department receives the application. The bill authorizes the department to charge an application fee in an amount sufficient to cover the costs to administer

the registration of vendors. The bill authorizes a vendor registered by the department to perform electronic criminal background checks and identity verification to annually renew the registration by submitting to the department a renewal application on the form prescribed by the department.

C.S.H.B. 2519 requires the vendor to report the results of a criminal background check and identity verification to the contracting entity by e-mail, and requires the report to be viewable to the contracting entity through a secure Internet website.

C.S.H.B. 2519 provides that a private vendor is liable to Texas for a civil penalty of not more than \$1,000 for each violation if the vendor violates the provisions of the bill or a rule adopted under the provisions. The bill requires the amount of the penalty assessed to be based on the seriousness of the violation, the history of previous violations, the amount necessary to deter a future violation, and any other matter that justice may require. The bill authorizes the attorney general to sue to collect such a civil penalty, and in the suit to recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

C.S.H.B. 2519 specifies that its provisions do not apply to an entity required under state law to obtain criminal history record information, if the entity was requiring fingerprint-based criminal background checks through the Department of Public Safety on or before September 1, 2009, or is required to conduct fingerprint-based criminal background checks by any other state or federal law.

C.S.H.B. 2519 requires the commission to develop criteria for registering a vendor to perform criminal background checks and identify verification not later than December 1, 2009.

C.S.H.B. 2519 defines "commission" and "department."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2519 differs from the original by replacing all references to the secretary of state's office or the secretary of state with the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation. The substitute adds provisions not in the original to define "commission" and "department." The substitute differs from the original by requiring the criteria for registering a vendor to provide criminal history record information to be developed in consultation with industry experts in addition to law enforcement officials. The substitute adds a provision not in the original to make the bill's provisions inapplicable to an entity required to obtain criminal history record information if the entity was requiring fingerprint-based criminal background checks through the Texas Department of Public Safety on or before September 1, 2009, or is required to conduct fingerprint-based criminal background checks by any other state or federal law.