

BILL ANALYSIS

Senate Research Center

S.B. 1056
By: Uresti
Jurisprudence
6/16/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 80th Legislature, Regular Session, 2007, S.B. 505 was passed, granting the Guardianship Certification Board (GCB) the authority to obtain criminal history record information from both the Department of Public Safety and the Federal Bureau of Investigation. However, if an applicant to GCB has a criminal history but has obtained an order of nondisclosure under Section 411.081 (Application of Subchapter), Government Code, the GCB will not receive information about the criminal history covered by the order unless GCB is included in the list of agencies in Section 411.081(i) (relating to the agencies on entities to which a criminal justice agency is authorized to disclose information) that are authorized to receive such information.

County clerks can obtain criminal history record information under Section 411.1386 (Access to Criminal History Record Information: Court Clerk; Department of Aging and Disability Services; Guardianships), Government Code, in connection with the appointment of a guardian, but are not currently included under Section 411.081(i). Because of the position of trust involved in a guardianship, access to criminal history record information is particularly important if the crimes involve abuse, neglect, financial exploitation, or moral turpitude.

S.B. 1056 amends current law relating to authorizing a criminal justice agency to disclose certain criminal history record information and to orders of disclosure regarding such information.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.081, Government Code, by adding Subsections (f-1) and (j) and amending Subsection (i), as follows:

(f-1) Defines "child." Requires a convicting court, notwithstanding any other provision of this subchapter, on conviction of a child for a misdemeanor offense punishable by fine only that does not constitute conduct indicating a need for supervision under Section 51.03 (Delinquent Conduct; Conduct Indicating a Need For Supervision), Family Code, to immediately issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense. Authorizes a criminal justice agency to disclose criminal history record information that is the subject of the order only to other criminal justice agencies for criminal justice purposes, to an agency or entity listed in Subsection (j), or to the person who is the subject of the order.

(i) Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) (relating to authorizing a person to petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under certain circumstances), to certain noncriminal justice agencies or entities only, including the Guardianship Certification Board, and a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII (Guardianship), Texas Probate Code.

(j) Authorizes a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (f-1) to certain agencies or entities only.

SECTION 2. Amends Section 411.0851(a), Government Code, to require a private entity that compiles and disseminates for compensation criminal history record information to destroy, and prohibits it from disseminating, any information in the possession of the entity with respect to which the entity has received notice that an order of nondisclosure has been issued under Section 411.081(d) (relating to authorization to petition the court for deferred adjudication for an order of nondisclosure) or (f-1).

SECTION 3. Amends the heading to Section 552.142, Government Code, to read as follows:

Sec. 552.142. EXCEPTION: RECORDS OF CERTAIN DEFERRED ADJUDICATIONS AND CERTAIN MISDEMEANORS PUNISHABLE BY FINE ONLY.

SECTION 4. Amends Section 552.142(a), Government Code, to make a conforming change.

SECTION 5. Amends Section 552.1425(a), Government Code, to make a conforming change.

SECTION 6. Provides that the change in law made by this Act applies to a conviction that occurs on or after the effective date of this Act, regardless of whether the offense was committed before, on, or after the effective date of this Act.

SECTION 7. Authorizes a child, as that term is defined by Section 51.02 (Definitions), Family Code, who is convicted of a misdemeanor offense punishable by fine only that does not constitute conduct indicating a need for supervision under Section 51.03, Family Code, before the effective date of this Act, notwithstanding Section 6 of this Act, to petition the court for an order of nondisclosure, and requires the court to issue the order under Section 411.081(f-1), Government Code, as added by this Act.

SECTION 8. Effective date: upon passage or September 1, 2009.