

By: Parker

H.B. No. 2519

Substitute the following for H.B. No. 2519:

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C.S.H.B. No. 2519

A BILL TO BE ENTITLED

AN ACT

1
2 relating to alternative methods of obtaining criminal history
3 information and registration of private vendors to obtain criminal
4 history information; providing a civil penalty.

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

6 SECTION 1. Subchapter F, Chapter 411, Government Code, is
7 amended by adding Section 411.0852 to read as follows:

8 Sec. 411.0852. PRIVATE VENDORS PROVIDING CRIMINAL HISTORY
9 RECORD INFORMATION; REGISTRATION OF VENDORS. (a) In this section:

10 (1) "Commission" means the Texas Commission of
11 Licensing and Regulation.

12 (2) "Department" means the Texas Department of
13 Licensing and Regulation.

14 (b) An entity authorized or required under the laws of this
15 state to obtain criminal history record information, including
16 national criminal history record information, regarding a person
17 may elect, as an alternative, to contract with a private vendor
18 registered under this section to obtain both the criminal history
19 record information and identity verification through
20 electronic-based data records.

21 (c) The commission by rule shall develop criteria for a
22 vendor to register with the state to provide criminal history
23 record information and perform identity verification. In
24 developing the criteria, the commission shall consult with law

1 enforcement officials and industry experts to ascertain the latest
2 trends in and technologies available for conducting criminal
3 background checks and identity verification. The commission may
4 annually update the criteria based on the latest trends and the
5 latest technologies available in conducting criminal background
6 checks.

7 (d) A private vendor may not provide criminal history record
8 information or perform identity verification for any entity
9 authorized or required under the laws of this state to obtain the
10 information or verification unless the vendor is registered in
11 accordance with this section and rules adopted under this section.
12 A vendor must submit to the department on the form prescribed by the
13 department an application requesting registration to provide
14 criminal history record information and perform identity
15 verification for entities required or authorized to obtain criminal
16 history record information. The department shall approve or deny
17 the application not later than the 30th day after the date the
18 department receives the application.

19 (e) The department may charge an application fee in an
20 amount sufficient to cover the costs to administer this section to
21 vendors who apply for registration under this section.

22 (f) A vendor registered by the department to perform
23 electronic criminal background checks and identity verification
24 may annually renew the registration by submitting to the department
25 a renewal application on the form prescribed by the department.

26 (g) The vendor shall report the results of a criminal
27 background check and identity verification to the contracting

1 entity by e-mail. The vendor's report must be viewable to the
2 contracting entity through a secure Internet website.

3 (h) A private vendor is liable to this state for a civil
4 penalty of not more than \$1,000 for each violation if the vendor
5 violates this section or a rule adopted under this section.

6 (i) The amount of the penalty assessed under Subsection (h)
7 shall be based on:

- 8 (1) the seriousness of the violation;
9 (2) the history of previous violations;
10 (3) the amount necessary to deter a future violation;

11 and

- 12 (4) any other matter that justice may require.

13 (j) The attorney general may sue to collect a civil penalty
14 under this section. In the suit the attorney general may recover,
15 on behalf of the state, the reasonable expenses incurred in
16 obtaining the penalty, including investigation and court costs,
17 reasonable attorney's fees, witness fees, and other expenses.

18 (k) This section shall not apply to an entity required under
19 the laws of this state to obtain criminal history record
20 information, if the entity was requiring fingerprint-based
21 criminal background checks through the Texas Department of Public
22 Safety on or before September 1, 2009, or is required to conduct
23 fingerprint-based criminal background checks by any other state or
24 federal law.

25 SECTION 2. Not later than December 1, 2009, the Texas
26 Commission of Licensing and Regulation shall develop criteria for
27 registering a vendor to perform criminal background checks and

1 identity verification under Section 411.0852, Government Code, as
2 added by this Act.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.