

By: Parker

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

16 (b) The secretary of state's office by rule shall develop
17 criteria for a vendor to register with the state to provide criminal
18 history record information and perform identity verification. In
19 developing the criteria, the secretary of state's office shall
20 consult with law enforcement officials to ascertain the latest
21 trends in and technologies available for conducting criminal
22 background checks and identity verification. The secretary of
23 state's office may annually update the criteria based on the latest
24 trends and the latest technologies available in conducting criminal

1 background checks.

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

14 (d) The secretary of state's office may charge an
15 application fee in an amount sufficient to cover the costs to
16 administer this section to vendors who apply for registration under
17 this section.

18 (e) A vendor registered by the secretary of state's office
19 to perform electronic criminal background checks and identity
20 verification may annually renew the registration by submitting to
21 the secretary of state a renewal application on the form prescribed
22 by the secretary of state.

23 (f) The vendor shall report the results of a criminal
24 background check and identity verification to the contracting
25 entity by e-mail. The vendor's report must be viewable to the
26 contracting entity through a secure Internet website.

27 (g) A private vendor is liable to this state for a civil

1 penalty of not more than \$1,000 for each violation if the vendor
2 violates this section or a rule adopted under this section.

3 (h) The amount of the penalty assessed under Subsection (g)
4 shall be based on:

- 5 (1) the seriousness of the violation;
6 (2) the history of previous violations;
7 (3) the amount necessary to deter a future violation;

8 and

9 (4) any other matter that justice may require.

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

15 SECTION 2. Not later than December 1, 2009, the secretary of
16 state's office shall develop criteria for registering a vendor to
17 perform criminal background checks and identity verification under
18 Section 411.0852, Government Code, as added by this Act.

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