

By: Carona

S.B. No. 1971

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the collection, maintenance, and transfer and other
3 dissemination of criminal history record information and juvenile
4 justice information.

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

6 SECTION 1. Section 411.042(b), Government Code, as amended
7 by Chapters 70 (H.B. 76), 1306 (S.B. 839), and 1372 (S.B. 9), Acts
8 of the 80th Legislature, Regular Session, 2007, is reenacted and
9 amended to read as follows:

10 (b) The bureau of identification and records shall:

11 (1) procure and file for record photographs, pictures,
12 descriptions, fingerprints, measurements, and other pertinent
13 information of all persons arrested for or charged with a criminal
14 offense or convicted of a criminal offense, regardless of whether
15 the conviction is probated;

16 (2) collect information concerning the number and
17 nature of offenses reported or known to have been committed in the
18 state and the legal steps taken in connection with the offenses, and
19 other information useful in the study of crime and the
20 administration of justice, including information that enables the
21 bureau to create a statistical breakdown of offenses in which
22 family violence was involved and a statistical breakdown of
23 offenses under Sections 22.011 and 22.021, Penal Code;

24 (3) make ballistic tests of bullets and firearms and

1 chemical analyses of bloodstains, cloth, materials, and other
2 substances for law enforcement officers of the state;

3 (4) cooperate with identification and crime records
4 bureaus in other states and the United States Department of
5 Justice;

6 (5) maintain a list of all previous background checks
7 for applicants for any position regulated under Chapter 1702,
8 Occupations Code, who have undergone a criminal history background
9 check under Section 411.119, if the check indicates a Class B
10 misdemeanor or equivalent offense or a greater offense;

11 (6) collect information concerning the number and
12 nature of protective orders and all other pertinent information
13 about all persons on active protective orders. Information in the
14 law enforcement information system relating to an active protective
15 order shall include:

16 (A) the name, sex, race, date of birth, personal
17 descriptors, address, and county of residence of the person to whom
18 the order is directed;

19 (B) any known identifying number of the person to
20 whom the order is directed, including the person's social security
21 number or driver's license number;

22 (C) the name and county of residence of the
23 person protected by the order;

24 (D) the residence address and place of employment
25 or business of the person protected by the order, unless that
26 information is excluded from the order under Section 85.007, Family
27 Code;

1 (E) the child-care facility or school where a
2 child protected by the order normally resides or which the child
3 normally attends, unless that information is excluded from the
4 order under Section 85.007, Family Code;

5 (F) the relationship or former relationship
6 between the person who is protected by the order and the person to
7 whom the order is directed; and

8 (G) the date the order expires; ~~and~~

9 (7) grant access to criminal history record
10 information in the manner authorized under Subchapter F;

11 (8) [~~(7)~~] collect and disseminate information
12 regarding offenders with mental impairments in compliance with
13 Chapter 614, Health and Safety Code; and

14 (9) record data and maintain a state database for a
15 computerized criminal history record system and computerized
16 juvenile justice information system that serves:

17 (A) as the record creation point for criminal
18 history record information and juvenile justice information
19 maintained by the state; and

20 (B) as the control terminal for the entry of
21 records, in accordance with federal law and regulations, federal
22 executive orders, and federal policy, into the federal database
23 maintained by the Federal Bureau of Investigation.

24 SECTION 2. Section 411.083(b), Government Code, is amended
25 to read as follows:

26 (b) The department shall grant access to criminal history
27 record information to:

- 1 (1) criminal justice agencies;
- 2 (2) noncriminal justice agencies authorized by
3 federal statute or executive order or by state statute to receive
4 criminal history record information;
- 5 (3) the person who is the subject of the criminal
6 history record information;
- 7 (4) a person working on a research or statistical
8 project that:
- 9 (A) is funded in whole or in part by state funds;
10 or
- 11 (B) meets the requirements of Part 22, Title 28,
12 Code of Federal Regulations, and is approved by the department;
- 13 (5) an individual or an agency that has a specific
14 agreement with a criminal justice agency to provide services
15 required for the administration of criminal justice under that
16 agreement, if the agreement:
- 17 (A) specifically authorizes access to
18 information;
- 19 (B) limits the use of information to the purposes
20 for which it is given;
- 21 (C) ensures the security and confidentiality of
22 the information; ~~and~~
- 23 (D) provides for sanctions if a requirement
24 imposed under Paragraph (A), (B), or (C) is violated; and
- 25 (E) requires the individual or agency to perform
26 the applicable services in a manner prescribed by the department;
- 27 (6) an individual or an agency that has a specific

1 agreement with a noncriminal justice agency to provide services
2 related to the use of criminal history record information
3 disseminated under this subchapter, if the agreement:

4 (A) specifically authorizes access to
5 information;

6 (B) limits the use of information to the purposes
7 for which it is given;

8 (C) ensures the security and confidentiality of
9 the information; ~~and~~

10 (D) provides for sanctions if a requirement
11 imposed under Paragraph (A), (B), or (C) is violated; and

12 (E) requires the individual or agency to perform
13 the applicable services in a manner prescribed by the department;

14 (7) a county or district clerk's office; and

15 (8) the Office of Court Administration of the Texas
16 Judicial System.

17 SECTION 3. Section 411.084(b), Government Code, is amended
18 to read as follows:

19 (b) Notwithstanding Subsection (a) or any other provision
20 in this subchapter, criminal history record information obtained
21 from the Federal Bureau of Investigation may be released or
22 disclosed only to a governmental entity or as authorized by federal
23 law and regulations ~~[statute, federal rule]~~, ~~[or]~~ federal executive
24 orders, and federal policy ~~[order]~~.

25 SECTION 4. Sections 411.0845(e), (i), and (k), Government
26 Code, are amended to read as follows:

27 (e) A person entitled to receive criminal history record

1 information under this section must provide the department with the
2 following information regarding the person who is the subject of
3 the criminal history record information requested:

4 (1) the person's full name, date of birth, sex, [~~Texas~~
5 ~~driver's license number or personal identification certificate~~
6 ~~number,~~] and social security number, and the number assigned to any
7 form of unexpired identification card issued by this state or
8 another state, the District of Columbia, or a territory of the
9 United States that includes the person's photograph;

10 (2) a recent electronic digital image photograph of
11 the person and a complete set of the person's fingerprints as
12 required by the department; and

13 (3) any other information required by the department.

14 (i) The release under this section of any criminal history
15 record information maintained by the Federal Bureau of
16 Investigation, including the computerized information submitted to
17 the federal database maintained by the Federal Bureau of
18 Investigation as described by Section 411.042(b)(9)(B), is subject
19 to federal law and regulations, federal executive orders, and
20 federal policy.

21 (k) A governmental agency may coordinate with the
22 department regarding the use of the fingerprinting fee collection
23 process to collect [~~collection of~~] a fee for the criminal history
24 record information and any other fees associated with obtaining a
25 person's fingerprints as required by the department [~~through the~~
26 ~~fingerprinting fee collection process~~].

27 SECTION 5. Section 411.085(a), Government Code, is amended

1 to read as follows:

2 (a) A person commits an offense if the person knowingly or
3 intentionally:

4 (1) obtains criminal history record information in an
5 unauthorized manner, uses the information for an unauthorized
6 purpose, or discloses the information to a person who is not
7 entitled to the information;

8 [~~(2) provides a person with a copy of the person's~~
9 ~~criminal history record information obtained from the department,~~]

10 or

11 (2) [~~(3)~~] violates a rule of the department adopted
12 under this subchapter.

13 SECTION 6. Section 411.094(d), Government Code, is amended
14 to read as follows:

15 (d) Criminal history record information received by an
16 institution of higher education under Subsection (b) may not be
17 released or disclosed to any person except on court order or with
18 the consent of the person who is the subject of the criminal history
19 record information.

20 SECTION 7. Section 411.0985(c), Government Code, is
21 amended to read as follows:

22 (c) The Texas Commission for the Blind may not release or
23 disclose information obtained under Subsection (a) except on court
24 order or with the consent of the person who is the subject of the
25 criminal history record information.

26 SECTION 8. Section 411.1005(b), Government Code, is
27 amended to read as follows:

1 (b) Information received by the state bar is confidential
2 and may be disseminated only:

3 (1) in a disciplinary action or proceeding conducted
4 by the state bar, the Board of Disciplinary Appeals, or any court;
5 or

6 (2) with the consent of the person who is the subject
7 of the criminal history record information.

8 SECTION 9. Section 411.1131(c), Government Code, is
9 amended to read as follows:

10 (c) The Texas Commission for the Deaf and Hard of Hearing
11 may not release or disclose information obtained under Subsection
12 (a), except on court order or with the consent of the person who is
13 the subject of the criminal history record information, and shall
14 destroy all criminal history record information obtained under
15 Subsection (a) after the information is used for its authorized
16 purpose.

17 SECTION 10. Section 411.1182(c), Government Code, is
18 amended to read as follows:

19 (c) Criminal history information obtained from the
20 department may not be released or disclosed except:

21 (1) as needed in protecting the security of a
22 commercial nuclear power plant;

23 (2) ~~[or]~~ as authorized by the United States Nuclear
24 Regulatory Commission, a court order, or a federal or state law or
25 order; or

26 (3) with the consent of the person who is the subject
27 of the criminal history record information.

1 SECTION 11. Section 411.120(b), Government Code, is
2 amended to read as follows:

3 (b) Criminal history record information obtained by a
4 county judge under Subsection (a) may not be released or disclosed
5 to any person except in a hearing held under Chapter 25 or 69,
6 Alcoholic Beverage Code, or with the consent of the person who is
7 the subject of the criminal history record information.

8 SECTION 12. Section 411.1236(b), Government Code, is
9 amended to read as follows:

10 (b) Criminal history record information obtained by the
11 Texas Commission on Fire Protection under Subsection (a) may not be
12 released to any person or agency except on court order or with the
13 consent of the person who is the subject of the criminal history
14 record information, or if [unless] the information is entered into
15 evidence by the board in an administrative, civil, or criminal
16 hearing under Chapter 419.

17 SECTION 13. Section 411.136(e), Government Code, is
18 amended to read as follows:

19 (e) All criminal history record information received by a
20 public or nonprofit hospital or hospital district under this
21 section is privileged, confidential, and intended for the exclusive
22 use of the entity that obtained the information. The hospital or
23 district may not release or disclose criminal history record
24 information to any person or agency except in a criminal
25 proceeding, in a hearing conducted by the hospital or district, to
26 another governmental entity as required by law, ~~or~~ as required by
27 court order, or with the consent of the person who is the subject of

1 the criminal history record information.

2 SECTION 14. Section 411.139(b), Government Code, is
3 amended to read as follows:

4 (b) Criminal history record information obtained by the
5 securities commissioner under this section may not be released by
6 any person or agency except on court order or with the consent of
7 the person who is the subject of the criminal history record
8 information, unless the information is entered into evidence by the
9 State Securities Board or a court at an administrative proceeding
10 or a civil or criminal action under The Securities Act (Article
11 581-1 et seq., Vernon's Texas Civil Statutes).

12 SECTION 15. Section 411.140(b), Government Code, is
13 amended to read as follows:

14 (b) Information received by the State Commission on
15 Judicial Conduct is confidential and may be disseminated only in an
16 investigation or proceeding conducted by the commission or with the
17 consent of the person who is the subject of the criminal history
18 record information.

19 SECTION 16. Section 411.1402(c), Government Code, is
20 amended to read as follows:

21 (c) The Employees Retirement System of Texas may not release
22 or disclose information obtained under Subsection (a) except on
23 court order or with the consent of the person who is the subject of
24 the criminal history record information.

25 SECTION 17. Section 411.1406(d), Government Code, as added
26 by Chapter 406 (S.B. 885), Acts of the 80th Legislature, Regular
27 Session, 2007, is amended to read as follows:

1 (d) The court may not release or disclose information
2 obtained under Subsection (b) except on order of a district court or
3 with the consent of the person who is the subject of the criminal
4 history record information.

5 SECTION 18. To the extent of any conflict, this Act prevails
6 over another Act of the 81st Legislature, Regular Session, 2009,
7 relating to nonsubstantive additions to and corrections in enacted
8 codes.

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