

SENATE AMENDMENTS

2nd Printing

By: McReynolds

H.B. No. 2917

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the Department of State Health Services to
3 obtain criminal history record information for certain applicants
4 for employment.

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

6 SECTION 1. Sections 411.110(a), (c), and (d), Government
7 Code, are amended to read as follows:

8 (a) The Department of State Health Services is entitled to
9 obtain from the department criminal history record information
10 maintained by the department that relates to:

11 (1) a person who is:

12 (A) an applicant for a license or certificate
13 under the Emergency Medical Services Act (Chapter 773, Health and
14 Safety Code);

15 (B) an owner or manager of an applicant for an
16 emergency medical services provider license under that Act; or

17 (C) the holder of a license or certificate under
18 that Act;

19 (2) an applicant for a license or a license holder
20 under Subchapter N, Chapter 431, Health and Safety Code; ~~[or]~~

21 (3) an applicant for a license, the owner or manager of
22 an applicant for a massage establishment license, or a license
23 holder under Chapter 455, Occupations Code;

24 (4) an applicant for employment at or current employee

1 of:

2 (A) the Texas Center for Infectious Disease; or

3 (B) the South Texas Health Care System; or

4 (5) an applicant for employment at, current employee
5 of, or person who contracts or may contract to provide goods or
6 services with:

7 (A) the vital statistics unit of the Department
8 of State Health Services; or

9 (B) the Council on Sex Offender Treatment or
10 other division or component of the Department of State Health
11 Services that monitors sexually violent predators as described by
12 Section 841.003(a), Health and Safety Code.

13 (c) After an entity is licensed or certified, the Department
14 of State Health Services shall destroy the criminal history record
15 information that relates to that entity. The Department of State
16 Health Services shall destroy the criminal history record
17 information that relates to:

18 (1) an applicant for employment after that applicant
19 is employed or, for an applicant who is not employed, after the
20 check of the criminal history record information on that applicant
21 is completed; or

22 (2) an employee or contractor after the check of the
23 criminal history record information on that employee or contractor
24 is completed.

25 (d) The Department of State Health Services shall destroy
26 criminal history record information that relates to an applicant
27 who ~~that~~ is not certified or employed, as applicable.

1 SECTION 2. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2009.

ADOPTED

MAY 26 2009

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Elit Shapleigh

1 Amend C.S.H.B. No. 2917 (senate committee printing) as
2 follows:

3 (1) Strike the recital to SECTION 1 of the bill (page 1,
4 lines 12 and 13) and substitute "Section 411.110, Government Code,
5 is amended by amending Subsections (a), (c), and (d) and adding
6 Subsection (f) to read as follows:".

7 (2) In SECTION 1 of the bill, immediately following amended
8 Section 411.110(d), Government Code (page 1, after line 54), insert
9 the following:

10 (f) The Department of State Health Services may not consider
11 offenses for which points are assessed under Section 708.052,
12 Transportation Code, to determine whether to hire or retain an
13 employee or to contract with a person on whom criminal history
14 record information is obtained under this section.

ADOPTED

MAY 26 2009

FLOOR AMENDMENT NO. 2

Adrian Spaw
Secretary of the Senate

BY:

Francis Rajan

1 Amend H.B. 2917 (senate committee printing) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS accordingly:

4 SECTION _____. Subchapter F, Chapter 411, Government Code,
5 is amended by adding Section 411.1389 to read as follows:

6 Sec. 411.1389. ACCESS TO CRIMINAL HISTORY RECORD
7 INFORMATION: OFFICE OF VIOLENT SEX OFFENDER MANAGEMENT. (a) The
8 Office of Violent Sex Offender Management is entitled to obtain
9 from the department criminal history record information that is
10 maintained by the department and that relates to a person who has
11 applied with the office to be:

12 (1) an employee of the office; or

13 (2) a contracted service provider with the office.

14 (b) Criminal history record information obtained by the
15 Office of Violent Sex Offender Management under Subsection (a) may
16 not be released or disclosed to any person or agency except on court
17 order or with the consent of the person who is the subject of the
18 information.

19 (c) The Office of Violent Sex Offender Management shall
20 destroy criminal history record information obtained under
21 Subsection (a) as soon as practicable after the date on which, as
22 applicable:

23 (1) the person's employment or contract with the
24 office terminates; or

25 (2) the office decides not to employ or contract with
26 the person.

27 SECTION _____. Subtitle B, Title 4, Government Code, is
28 amended by adding Chapter 420A to read as follows:

1 CHAPTER 420A. OFFICE OF VIOLENT SEX OFFENDER MANAGEMENT

2 Sec. 420A.001. DEFINITIONS. In this chapter:

3 (1) "Board" means the governing board of the Office of
4 Violent Sex Offender Management.

5 (2) "Office" means the Office of Violent Sex Offender
6 Management.

7 Sec. 420A.002. OFFICE; GOVERNING BOARD. (a) The Office of
8 Violent Sex Offender Management is a state agency.

9 (b) The office is governed by a board composed of the
10 following three members appointed by the governor:

11 (1) one member experienced in the management of sex
12 offenders;

13 (2) one member experienced in the investigation or
14 prosecution of sex offenses; and

15 (3) one member experienced in counseling or advocating
16 on behalf of victims of sexual assault.

17 (c) Members of the board serve staggered two-year terms.
18 Two members' terms expire February 1 of each even-numbered year and
19 one member's term expires February 1 of each odd-numbered year.

20 (d) A member of the board is entitled to travel expenses
21 incurred in performing official duties and to a per diem equal to
22 the maximum amount allowed on January 1 of that year for federal
23 employees per diem for federal income tax purposes, subject to the
24 same limitations provided for members of state boards and
25 commissions in the General Appropriations Act.

26 Sec. 420A.003. PRESIDING OFFICER; MEETINGS. (a) The
27 governor shall designate a member of the board as presiding
28 officer. The presiding officer serves at the discretion of the
29 governor.

30 (b) The board shall meet at least quarterly and at other
31 times at the call of the presiding officer.

1 Sec. 420A.004. SUNSET PROVISION. The Office of Violent Sex
2 Offender Management is subject to Chapter 325 (Texas Sunset Act).
3 Unless continued in existence as provided by that chapter, the
4 office is abolished and this chapter expires September 1, 2021.

5 Sec. 420A.005. GRANTS AND DONATIONS. On behalf of the
6 state, the office may apply for and accept grants and donations from
7 any source to be used by the office in the performance of the duties
8 of the office.

9 Sec. 420A.006. PUBLIC INTEREST INFORMATION. The office
10 shall prepare information of public interest describing the
11 functions of the office and the procedures by which complaints are
12 filed with and resolved by the office. The office shall make the
13 information available to the public and appropriate state agencies.

14 Sec. 420A.007. BIENNIAL REPORT. Not later than December 1
15 of each even-numbered year, the office shall submit to the
16 governor, the lieutenant governor, and the speaker of the house of
17 representatives a report concerning the operation of the office.
18 The office may include in the report any recommendations that the
19 office considers appropriate.

20 Sec. 420A.008. STAFF. The office may select and employ a
21 general counsel, staff attorneys, and other staff necessary to
22 perform the office's functions.

23 Sec. 420A.009. SALARY CAREER LADDER FOR CASE MANAGERS.
24 (a) The board shall adopt a salary career ladder for case
25 managers. The salary career ladder must base a case manager's
26 salary on the manager's classification and years of service with
27 the office.

28 (b) For purposes of the salary schedule, the office shall
29 classify all case manager positions as Case Manager I, Case Manager
30 II, Case Manager III, Case Manager IV, or Case Manager V.

31 (c) Under the salary career ladder adopted under Subsection

1 (a), a case manager to whom the schedule applies and who received an
2 overall evaluation of at least satisfactory in the case manager's
3 most recent annual evaluation is entitled to an annual salary
4 increase, during each of the case manager's first 10 years of
5 service in a designated case manager classification as described by
6 Subsection (b), equal to one-tenth of the difference between:

7 (1) the case manager's current annual salary; and

8 (2) the minimum annual salary of a case manager in the
9 next highest classification.

10 Sec. 420A.010. POWERS AND DUTIES. The office shall perform
11 appropriate functions related to the sex offender civil commitment
12 program provided under Chapter 841, Health and Safety Code,
13 including functions related to the provision of treatment and
14 supervision to civilly committed sex offenders.

15 SECTION _____. Subdivisions (3) and (4), Section 841.002,
16 Health and Safety Code, are amended to read as follows:

17 (3) "Case manager" means a person employed by or under
18 contract with the office [~~council~~] to perform duties related to
19 outpatient treatment and supervision of a person committed under
20 this chapter.

21 (4) "Office" [~~"Council"~~] means the Office of Violent
22 Sex Offender Management [~~Council on Sex Offender Treatment~~].

23 SECTION _____. Section 841.007, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 841.007. DUTIES OF OFFICE OF VIOLENT SEX OFFENDER
26 MANAGEMENT [~~COUNCIL ON SEX OFFENDER TREATMENT~~]. The Office of
27 Violent Sex Offender Management [~~Council on Sex Offender Treatment~~]
28 is responsible for providing appropriate and necessary treatment
29 and supervision through the case management system.

30 SECTION _____. Subsection (a), Section 841.022, Health and
31 Safety Code, is amended to read as follows:

1 (a) The executive director of the Texas Department of
2 Criminal Justice and the commissioner of the [~~Texas~~] Department of
3 State Health Services [~~Mental Health and Mental Retardation~~]
4 jointly shall establish a multidisciplinary team to review
5 available records of a person referred to the team under Section
6 841.021. The team must include:

7 (1) one person [~~two persons~~] from the [~~Texas~~]
8 Department of State Health Services [~~Mental Health and Mental~~
9 ~~Retardation~~];

10 (2) two persons from the Texas Department of Criminal
11 Justice, one of whom must be from the victim services office of that
12 department;

13 (3) one person from the [~~Texas~~] Department of Public
14 Safety; [~~and~~]

15 (4) two persons from the office [~~council~~] or office
16 [~~council~~] personnel; and

17 (5) one person from the Council on Sex Offender
18 Treatment.

19 SECTION _____. Subsections (a) and (c), Section 841.082,
20 Health and Safety Code, are amended to read as follows:

21 (a) Before entering an order directing a person's
22 outpatient civil commitment, the judge shall impose on the person
23 requirements necessary to ensure the person's compliance with
24 treatment and supervision and to protect the community. The
25 requirements shall include:

26 (1) requiring the person to reside in a Texas
27 residential facility under contract with the office [~~council~~] or at
28 another location or facility approved by the office [~~council~~];

29 (2) prohibiting the person's contact with a victim or
30 potential victim of the person;

31 (3) prohibiting the person's possession or use of

1 alcohol, inhalants, or a controlled substance;

2 (4) requiring the person's participation in and
3 compliance with a specific course of treatment provided by the
4 office and compliance with all written requirements imposed by the
5 case manager or otherwise by the office;

6 (5) requiring the person to:

7 (A) submit to tracking under a particular type of
8 tracking service and to any other appropriate supervision; and

9 (B) refrain from tampering with, altering,
10 modifying, obstructing, or manipulating the tracking equipment;

11 (6) prohibiting the person from changing the person's
12 residence without prior authorization from the judge and from
13 leaving the state without that prior authorization;

14 (7) if determined appropriate by the judge,
15 establishing a child safety zone in the same manner as a child
16 safety zone is established by a judge under Section 13B, Article
17 42.12, Code of Criminal Procedure, and requiring the person to
18 comply with requirements related to the safety zone; and

19 (8) ~~[requiring the person to notify the case manager~~
20 ~~immediately but in any event within 24 hours of any change in the~~
21 ~~person's status that affects proper treatment and supervision,~~
22 ~~including a change in the person's physical health or job status and~~
23 ~~including any incarceration of the person, and~~

24 [(9)] any other requirements determined necessary by
25 the judge.

26 (c) The judge shall provide a copy of the requirements
27 imposed under Subsection (a) to the person and to the office
28 ~~[council]~~. The office ~~[council]~~ shall provide a copy of those
29 requirements to the case manager and to the service providers.

30 SECTION _____. Section 841.083, Health and Safety Code, is
31 amended to read as follows:

1 Sec. 841.083. TREATMENT; SUPERVISION. (a) The office
2 [~~council~~] shall approve and contract for the provision of a
3 treatment plan for the committed person to be developed by the
4 treatment provider. A treatment plan may include the monitoring of
5 the person with a polygraph or plethysmograph. The treatment
6 provider may receive annual compensation in an amount not to exceed
7 \$10,000 [~~\$6,000~~] for providing the required treatment.

8 (b) The case manager shall provide supervision to the
9 person. The provision of supervision must [~~shall~~] include a
10 tracking service and, if required by court order, supervised
11 housing.

12 (c) The office [~~council~~] shall enter into appropriate
13 memoranda of understanding with the [~~Texas~~] Department of Public
14 Safety for the provision of a tracking service and with the
15 Department of Public Safety and local law enforcement authorities
16 for assistance in the preparation of criminal complaints, warrants,
17 and related documents and in the apprehension and arrest of a
18 person.

19 ~~[(c-1) Notwithstanding Subsection (c) or any other~~
20 ~~provision of this subchapter, the council shall provide through the~~
21 ~~case management system any supervision or tracking service required~~
22 ~~under this chapter for persons residing in Dallas, Harris, or~~
23 ~~Tarrant County. The council shall provide the tracking service~~
24 ~~under this subsection through two employees of the Department of~~
25 ~~State Health Services. Any tracking personnel used by the~~
26 ~~department for purposes of this chapter must be approved by the~~
27 ~~council.~~

28 ~~[(c-2) If the equipment necessary to implement the tracking~~
29 ~~service is available through a contract entered into by the~~
30 ~~comptroller, the Department of Public Safety or the council, as~~
31 ~~appropriate, shall acquire that equipment through that contract.]~~

1 (d) The office [~~council~~] shall enter into appropriate
2 memoranda of understanding for any necessary supervised housing.
3 The office [~~council~~] shall reimburse the applicable provider for
4 housing costs under this section. The committed person may not be
5 housed for any period of time in a mental health facility, state
6 school, or community center, unless the placement results from a
7 commitment of the person to that facility, school, or center by
8 governmental action. In this subsection:

9 (1) "Community center" means a center established
10 under Subchapter A, Chapter 534.

11 (2) "Mental health facility" has the meaning assigned
12 by Section 571.003.

13 (3) "State school" has the meaning assigned by Section
14 531.002.

15 (e) The case manager shall:

16 (1) coordinate the outpatient treatment and
17 supervision required by this chapter, including performing a
18 periodic assessment of the success of that treatment and
19 supervision;

20 (2) make timely recommendations to the judge on
21 whether to allow the committed person to change residence or to
22 leave the state and on any other appropriate matters; and

23 (3) provide a report to the office [~~council~~],
24 semiannually or more frequently as necessary, which must include:

25 (A) any known change in the person's status that
26 affects proper treatment and supervision; and

27 (B) any recommendations made to the judge.

28 SECTION _____. Section 841.084, Health and Safety Code, is
29 amended to read as follows:

30 Sec. 841.084. COST OF TRACKING SERVICE. Notwithstanding
31 Section 841.146(c), a civilly committed person who is not indigent

1 is responsible for the cost of the tracking service required by
2 Section 841.082 and monthly shall pay to the office [~~council~~] the
3 amount that the office [~~council~~] determines will be necessary to
4 defray the cost of operating the service with respect to the person
5 during the subsequent month. The office [~~council~~] immediately
6 shall transfer the money to the appropriate service provider.

7 SECTION _____. Section 841.101, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 841.101. BIENNIAL EXAMINATION. (a) A person
10 committed under Section 841.081 shall receive a biennial
11 examination. The office [~~council~~] shall contract for an expert to
12 perform the examination.

13 (b) In preparation for a judicial review conducted under
14 Section 841.102, the case manager shall provide a report of the
15 biennial examination to the judge. The report must include
16 consideration of whether to modify a requirement imposed on the
17 person under this chapter and whether to release the person from all
18 requirements imposed on the person under this chapter. The case
19 manager shall provide a copy of the report to the office [~~council~~].

20 SECTION _____. Section 841.141, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 841.141. RULEMAKING AUTHORITY. (a) The office
23 [~~council~~] by rule shall administer this chapter. Rules adopted by
24 the office [~~council~~] under this section must be consistent with the
25 purposes of this chapter.

26 (b) The office [~~council~~] by rule shall develop standards of
27 care and case management for persons committed under this chapter.

28 SECTION _____. Subsections (c) and (d), Section 841.142,
29 Health and Safety Code, are amended to read as follows:

30 (c) On the written request of any attorney for another state
31 or for a political subdivision in another state, the Texas

1 Department of Criminal Justice, the office [~~council~~], a service
2 provider contracting with one of those agencies, the
3 multidisciplinary team, and the attorney representing the state
4 shall release to the attorney any available information relating to
5 a person that is sought in connection with an attempt to civilly
6 commit the person as a sexually violent predator in another state.

7 (d) To protect the public and to enable an assessment or
8 determination relating to whether a person is a sexually violent
9 predator or to enable the provision of supervision and treatment to
10 a person who is a sexually violent predator, the Texas Department of
11 Criminal Justice, the office [~~council~~], a service provider
12 contracting with one of those agencies, the multidisciplinary team,
13 and the attorney representing the state may exchange any available
14 information relating to the person.

15 SECTION _____. Section 841.147, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 841.147. IMMUNITY. The following persons are immune
18 from liability for good faith conduct under this chapter:

19 (1) an employee or officer of the Texas Department of
20 Criminal Justice, the Department of State Health Services, the
21 Department of Aging and Disability Services, or the office
22 [~~council~~];

23 (2) a member of the multidisciplinary team established
24 under Section 841.022;

25 (3) an employee of the civil division of the special
26 prosecution unit charged with initiating and pursuing civil
27 commitment proceedings under this chapter; and

28 (4) a person providing, or contracting, appointed, or
29 volunteering to perform, a tracking service or another service
30 under this chapter.

31 SECTION _____. Subchapter H, Chapter 841, Health and Safety

1 Code, is amended by adding Section 841.151 to read as follows:

2 Sec. 841.151. NOTICE OF RELEASE OF SEXUALLY VIOLENT
3 PREDATOR. (a) In this section:

4 (1) "Correctional facility" has the meaning assigned
5 by Section 1.07, Penal Code.

6 (2) "Secure correctional facility" and "secure
7 detention facility" have the meanings assigned by Section 51.02,
8 Family Code.

9 (b) This section applies to a person who has been civilly
10 committed under this chapter and who is detained or confined in a
11 correctional facility, secure correctional facility, or secure
12 detention facility as a result of violating:

13 (1) a civil commitment requirement imposed under
14 Section 841.082; or

15 (2) a law of this state.

16 (c) Not later than the day preceding the date a correctional
17 facility, secure correctional facility, or secure detention
18 facility releases a person who, at the time of the person's
19 detention or confinement, was civilly committed under this chapter
20 as a sexually violent predator, the facility shall notify the
21 person's case manager in writing of the anticipated date and time of
22 the person's release.

23 (d) A case manager, on request, shall provide a correctional
24 facility, a secure correctional facility, or a secure detention
25 facility with the case manager's appropriate contact information
26 for notification under Subsection (c).

27 SECTION _____. As soon as possible after the effective date
28 of this Act, the governor shall appoint three members to the Office
29 of Violent Sex Offender Management as provided by Section 420A.002,
30 Government Code, as added by this Act.

31 SECTION _____. (a) The following are transferred to the

1 Office of Violent Sex Offender Management:

2 (1) the functions of the Council on Sex Offender
3 Treatment that relate to the sex offender civil commitment program;

4 (2) the director of the Department of State Health
5 Services who has jurisdiction over the sex offender civil
6 commitment program; and

7 (3) the staff of the council whose primary duties
8 include the operation of the sex offender civil commitment program.

9 (b) The Office of Violent Sex Offender Management, the
10 Department of State Health Services, and the Council on Sex
11 Offender Treatment shall coordinate the transfer of functions
12 relating to the sex offender civil commitment program as required
13 by this section.

14 (c) The transfer of all functions relating to the sex
15 offender civil commitment program to the Office of Violent Sex
16 Offender Management shall be accomplished as soon as possible but
17 not later than the 90th day after the date that the last member of
18 the Office of Violent Sex Offender Management qualifies for office.

19 (d) The transfer required by this section includes the
20 transfer of all assets, duties, powers, obligations, and
21 liabilities, including contracts, leases, real or personal
22 property, funds, employees, furniture, computers and other
23 equipment, and files and related materials used by the Department
24 of State Health Services and the Council on Sex Offender Treatment
25 in performing the functions relating to the sex offender civil
26 commitment program that are transferred by this section. For
27 purposes of this subsection, "employees" includes the executive
28 director of the Council on Sex Offender Treatment and
29 administrative technicians and program specialists employed by the
30 council.

31 (e) A form, rule, or procedure adopted by the Health and

1 Human Services Commission or the Department of State Health
2 Services in relation to the Council on Sex Offender Treatment that
3 is in effect on the effective date of this Act remains in effect on
4 and after that date as if adopted by the Office of Violent Sex
5 Offender Management until amended, repealed, withdrawn, or
6 otherwise superseded by that office.

7 (f) All unexpended appropriations for functions relating to
8 the sex offender civil commitment program that are made for use by
9 the Department of State Health Services or the Council on Sex
10 Offender Treatment are transferred to the Office of Violent Sex
11 Offender Management.

12 (g) The Office of Violent Sex Offender Management shall
13 publish in the Texas Register the date on which the transfer of
14 functions under this section is accomplished.

15 (h) After the effective date of this Act, the Council on Sex
16 Offender Treatment shall continue to perform applicable functions
17 until the transfer of functions required by this section is
18 completed, and the laws providing for those functions are continued
19 in effect for that purpose.

ADOPTED

FLOOR AMENDMENT NO. 3

MAY 26 2009

BY: *Jan Huffman*

Atalay Spaul
Secretary of the Senate

1 Amend H.B. 2917 (Senate Committee report version), by
2 inserting the following and renumbering the subsequent sections
3 appropriately:

4 SECTION ____ Subdivision (7), Section 108.002, Health and
5 Safety Code, is amended to read as follows:

6 (7) "Department" means the ~~[Texas]~~ Department of
7 State Health Services.

8 SECTION ____ Chapter 108, Health and Safety Code, is
9 amended by adding Section 108.0026 to read as follows:

10 Sec. 108.0026. TRANSFER OF DUTIES; REFERENCE TO COUNCIL.

11 (a) The powers and duties of the Texas Health Care Information
12 Council under this chapter were transferred to the Department of
13 State Health Services in accordance with Section 1.19, Chapter
14 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session,
15 2003.

16 (b) In this chapter, a reference to the Texas Health Care
17 Information Council means the Department of State Health
18 Services.

19 SECTION ____ Subsection (h), Section 108.009, Health and
20 Safety Code, is amended to read as follows:

21 (h) The department ~~[council]~~ shall coordinate data
22 collection with the data submission formats used by hospitals
23 and other providers. The department ~~[council]~~ shall accept data
24 in the format developed by the American National Standards
25 Institute ~~[National Uniform Billing Committee (Uniform Hospital~~
26 ~~Billing Form UB 92) and HCFA 1500]~~ or its successor ~~[their~~
27 ~~successors]~~ or other nationally ~~[universally]~~ accepted
28 standardized forms that hospitals and other providers use for
29 other complementary purposes.

1 SECTION ____ . Section 108.013, Health and Safety Code, is
2 amended by amending Subsections (a), (b), (c), (d), (g), (i),
3 and (j) and adding Subsections (k), (l), (m), and (n) to read as
4 follows:

5 (a) The data received by the department under this chapter
6 [~~council~~] shall be used by the department [~~council~~] for the
7 benefit of the public. Subject to specific limitations
8 established by this chapter and executive commissioner [~~council~~]
9 rule, the department [~~council~~] shall make determinations on
10 requests for information in favor of access.

11 (b) The executive commissioner [~~council~~] by rule shall
12 designate the characters to be used as uniform patient
13 identifiers. The basis for assignment of the characters and the
14 manner in which the characters are assigned are confidential.

15 (c) Unless specifically authorized by this chapter, the
16 department [~~council~~] may not release and a person or entity may
17 not gain access to any data obtained under this chapter:

18 (1) that could reasonably be expected to reveal the
19 identity of a patient;

20 (2) that could reasonably be expected to reveal the
21 identity of a physician;

22 (3) disclosing provider discounts or differentials
23 between payments and billed charges;

24 (4) relating to actual payments to an identified
25 provider made by a payer; or

26 (5) submitted to the department under this chapter
27 [~~council~~] in a uniform submission format that is not included in
28 the public use data set established under Sections 108.006(f)
29 and (g), except in accordance with Section 108.0135.

30 (d) Except as provided by this section, all [~~All~~] data
31 collected and used by the department [~~and the council~~] under

1 this chapter is subject to the confidentiality provisions and
2 criminal penalties of:

- 3 (1) Section 311.037;
- 4 (2) Section 81.103; and
- 5 (3) Section 159.002, Occupations Code.

6 (g) Unless specifically authorized by this chapter, the
7 department [The council] may not release data elements in a
8 manner that will reveal the identity of a patient. The
9 department [council] may not release data elements in a manner
10 that will reveal the identity of a physician.

11 (i) Notwithstanding any other law, the [~~council and the~~]
12 department may not provide information made confidential by this
13 section to any other agency of this state.

14 (j) The executive commissioner [council] shall by rule[~~7~~
15 ~~with the assistance of the advisory committee under Section~~
16 ~~108.003(g)(5),~~] develop and implement a mechanism to comply with
17 Subsections (c)(1) and (2).

18 (k) The department may disclose data collected under this
19 chapter that is not included in public use data to any program
20 within the department if the disclosure is reviewed and approved
21 by the institutional review board under Section 108.0135.

22 (l) Confidential data collected under this chapter that is
23 disclosed to a program within the department remains subject to
24 the confidentiality provisions of this chapter and other
25 applicable law. The department shall identify the confidential
26 data that is disclosed to a program under Subsection (k). The
27 program shall maintain the confidentiality of the disclosed
28 confidential data.

29 (m) The following provisions do not apply to the
30 disclosure of data to a department program:

- 31 (1) Section 81.103;

1 (2) Sections 108.010(g) and (h);

2 (3) Sections 108.011(e) and (f);

3 (4) Section 311.037; and

4 (5) Section 159.002, Occupations Code.

5 (n) Nothing in this section authorizes the disclosure of
6 physician identifying data.

7 SECTION _____. Section 108.0135, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 108.0135. INSTITUTIONAL [~~SCIENTIFIC~~] REVIEW BOARD
10 [~~PANEL~~]. (a) The department [~~council~~] shall establish an
11 institutional [~~a scientific~~] review board [~~panel~~] to review and
12 approve requests for access to data not contained in
13 [~~information other than~~] public use data. The members of the
14 institutional review board must [~~panel shall~~] have experience
15 and expertise in ethics, patient confidentiality, and health
16 care data.

17 (b) To assist the institutional review board [~~panel~~] in
18 determining whether to approve a request for information, the
19 executive commissioner of the Health and Human Services
20 Commission [~~council~~] shall adopt rules similar to the federal
21 Centers for Medicare and Medicaid Services' [~~Health Care~~
22 ~~Financing Administration's~~] guidelines on releasing data.

23 (c) A request for information other than public use data
24 must be made on the form prescribed [~~created~~] by the department
25 [~~council~~].

26 (d) Any approval to release information under this section
27 must require that the confidentiality provisions of this chapter
28 be maintained and that any subsequent use of the information
29 conform to the confidentiality provisions of this chapter.

30 SECTION _____. Subdivision (5), Section 108.002, Health and
31 Safety Code, is repealed.

21

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2917 by McReynolds (Relating to authorizing the Department of State Health Services to obtain criminal history record information for certain applicants for employment.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill expands the authority of the Department of State Health Services (DSHS) to obtain criminal history record information for certain applicants for employment, employees, and in some cases contractors at the:

1. Texas Center for Infectious Disease (TCID)
2. South Texas Health Care System (STHCS)
3. Bureau of Vital Statistics of the DSHS, or
4. Council on Sex Offenders or other division or component of DSHS that monitors sexually violent predators.

According to DSHS, there would be minimal additional costs; that could be absorbed, and revenue associated with the expanded criminal background checks due to the fact that some employees at these entities are already receiving criminal background checks and the costs for the checks are not very high (\$1.00 per applicant for a name check and \$44.20 for an FBI background check).

Senate Floor Amendment #2 would transfer the functions of the Council on Sex Offender Treatment at DSHS, which currently performs the functions related to the sex offender civil commitment program to the Office of Violent Sex Offender Management (Office), a new agency created by the bill. DSHS indicates that the fiscal year 2009 appropriation for the sex offender civil commitment program was \$3,039,193 and that there were 14 Full-Time-Equivalent (FTE) positions associated with the program. Based on the provisions in the bill, it is anticipated that this funding, the 14 associated FTEs as well as all other assets, duties, powers, obligations and liabilities will be transferred to the new Office, beginning September 1, 2009 (the effective date of the bill).

The sex offender civil commitment program at DSHS is currently funded through an interagency contract with the Judiciary Section of the Comptroller's Department; the new agency created by the bill could be funded by direct appropriations instead of through an interagency contract.

The bill creates a governing board associated with the Office and would entitle members of the board to reimbursement for certain expenses. Reimbursement would not be permissible without specific authorization in the General Appropriations Act. The bill also authorizes the new Office to apply for and accept grants and donations to be used in the performance of its duties, and requires the Office to prepare public information describing its functions and procedures and to prepare a biennial report for the Legislature concerning its operation. The bill also establishes a career ladder at the Office for case managers based on years of service. It is assumed that any additional responsibilities associated with the new Office could be absorbed within existing resources.

It is assumed that the responsibilities of the Special Prosecution Unit of Walker County, which initiates and pursues civil commitment proceedings, are not transferred to the Office. Funding for the

Special Prosecution Unit of Walker County is included in the appropriations for the Judiciary Section of the Comptroller's Department.

Senate Floor Amendment #3 would allow DSHS to disclose any data collected under the purview of the former Health Care Information Council and not included in public use data to any program within DSHS if it is reviewed and approved by the institutional review board. All data that is confidential remains subject to confidentiality provisions. Provision of data to programs within DSHS is exempted from certain other requirements; disclosure of physician identifying data is prohibited. According to DSHS, any cost to implement the provisions of the amendment would be minimal and can be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of, 694 Youth Commission, 696 Department of Criminal Justice

LBB Staff: JOB, CL, PP, JF, LR

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2917 by McReynolds (Relating to authorizing the Department of State Health Services to obtain criminal history record information for certain applicants for employment.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill expands the authority of the Department of State Health Services (DSHS) to obtain criminal history record information for certain applicants for employment, employees, and in some cases contractors at the:

1. Texas Center for Infectious Disease (TCID)
2. South Texas Health Care System (STHCS)
3. Bureau of Vital Statistics of the DSHS, or
4. Council on Sex Offenders or other division or component of DSHS that monitors sexually violent predators.

According to DSHS, there would be minimal additional costs; that could be absorbed, and revenue associated with the expanded criminal background checks due to the fact that some employees at these entities are already receiving criminal background checks and the costs for the checks are not very high (\$1.00 per applicant for a name check and \$44.20 for an FBI background check).

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of

LBB Staff: JOB, CL, PP, JF, MB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 7, 2009

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2917 by McReynolds (Relating to authorizing the Department of State Health Services to obtain criminal history record information for certain applicants for employment.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill expands the authority of the Department of State Health Services (DSHS) to obtain criminal history record information for certain applicants for employment, employees, and in some cases contractors at the:

1. Texas Center for Infectious Disease (TCID)
2. South Texas Health Care System (STHCS)
3. Bureau of Vital Statistics of the DSHS, or
4. Council on Sex Offenders or other division or component of DSHS that monitors sexually violent predators.

According to DSHS, there would be minimal additional costs; that could be absorbed, and revenue associated with the expanded criminal background checks due to the fact that some employees at these entities are already receiving criminal background checks and the costs for the checks are not very high (\$1.00 per applicant for a name check and \$44.20 for an FBI background check).

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of

LBB Staff: JOB, CL, PP, JF, MB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 27, 2009

TO: Honorable Lois W. Kolchhorst, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2917 by McReynolds (Relating to authorizing the Department of State Health Services to obtain criminal history record information for certain applicants for employment.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill expands the authority of the Department of State Health Services (DSHS) to obtain criminal history record information for certain applicants for employment at the:

1. Texas Center for Infectious Disease (TCID)
2. South Texas Health Care System (STHCS)
3. Bureau of Vital Statistics of the DSHS, or
4. Council on Sex Offenders or other division or component of DSHS that monitors sexually violent predators.

According to DSHS, there would be minimal additional costs; that could be absorbed, and revenue associated with the expanded criminal background checks due to the fact that some employees at these entities are already receiving criminal background checks and the costs for the checks are not very high (\$1.00 per applicant for a name check and \$44.20 for an FBI background check).

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of
LBB Staff: JOB, CL, PP, JF

