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SECTION 1. Section 411.081(i), Government Code, is amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;

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- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission;
- (23) the Department of Aging and Disability Services;
- [and]
- (24) the Texas Education Agency; and
- (25) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:
  - (A) the Department of Information Resources; or
  - (B) a contractor or subcontractor of the Department of Information Resources.

SECTION 2. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1404 to read as follows:

Sec. 411.1404. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF INFORMATION RESOURCES. (a) The Department of

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Information Resources is entitled to obtain from the department or the identification division of the Federal Bureau of Investigation the criminal history record information maintained by the department or division that relates to a person who is an employee, applicant for employment, contractor, subcontractor, intern, or other volunteer with the Department of Information Resources or with a contractor or subcontractor for the Department of Information Resources.

(b) Criminal history record information obtained by the Department of Information Resources under this section may not be released or disclosed except:

(1) by court order; or

(2) with the consent of the person who is the subject of the information.

(c) The Department of Information Resources shall destroy criminal history record information obtained under this section that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

(d) The Department of Information Resources may not obtain criminal history record information under this section unless the Department of Information Resources first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. The policies and

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procedures adopted under this subsection must provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on factors that include:

- (1) the specific duties of the position;
- (2) the number of offenses committed by the individual;
- (3) the nature and seriousness of each offense;
- (4) the length of time between the offense and the employment decision;
- (5) the efforts by the individual at rehabilitation; and
- (6) the accuracy of the information on the individual's employment application.

SECTION 3. Subchapter D, Chapter 551, Government Code, is amended by adding Section 551.089 to read as follows:

Sec. 551.089. DEPARTMENT OF INFORMATION RESOURCES. This chapter does not require the governing board of the Department of Information Resources to conduct an open meeting to deliberate:

- (1) security assessments or deployments relating to information resources technology;
- (2) network security information as described by Section 2059.055(b); or
- (3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

SECTION 4. Section 552.139, Government Code, is

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amended to read as follows:

Sec. 552.139. EXCEPTION: GOVERNMENT INFORMATION RELATED TO SECURITY OR INFRASTRUCTURE ISSUES FOR COMPUTERS. (a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

- (1) a computer network vulnerability report; and
- (2) any other assessment of the extent to which data processing operations, a computer, ~~or~~ a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, ~~or~~ erasure, or inappropriate use.

(c) Notwithstanding the confidential nature of the information described in this section, the information may be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid. A disclosure under this subsection is not a voluntary disclosure for purposes of Section 552.007.

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SECTION 5. Sections 2054.077(b), (d), and (e), Government Code, are amended to read as follows:

(b) The information resources manager of a state agency may prepare or have prepared a report, including an executive summary of the findings of the report, assessing the extent to which a computer, a computer program, a computer network, a computer system, an interface to a computer system, computer software, or data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, ~~or~~ erasure, or inappropriate use.

(d) ~~The [On request, the]~~ information resources manager shall provide an electronic [a] copy of the vulnerability report on its completion to:

- (1) the department;
- (2) the state auditor; ~~and~~
- (3) the agency's executive director; and
- (4) any other information technology security oversight group specifically authorized by the legislature to receive the report.

(e) Separate from the executive summary described by Subsection (b), a [A] state agency whose information resources manager has prepared or has had prepared a vulnerability report shall prepare a summary of the report that does not contain any information the release of which might compromise the security of the state agency's or state agency contractor's computers,

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computer programs, computer networks, computer systems, computer software, data processing, or electronically stored information. The summary is available to the public on request.

No equivalent provision.

No equivalent provision.

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SECTION 6. Section 2054.100(b), Government Code, is amended to read as follows:

(b) The plan must describe the agency's current and proposed projects for the biennium, including how the projects will:

- (1) benefit individuals in this state and benefit the state as a whole;
- (2) use, to the fullest extent, technology owned or adapted by other state agencies;
- (3) employ, to the fullest extent, the department's information technology standards, including Internet-based technology standards;
- (4) expand, to the fullest extent, to serve residents of this state or to serve other state agencies;
- (5) develop on time and on budget;
- (6) produce quantifiable returns on investment; and
- (7) meet any other criteria developed by the department or the quality assurance team.

SECTION 7. Subchapter B, Chapter 2059, Government Code, is amended by adding Section 2059.060 to read as follows:

Sec. 2059.060. VULNERABILITY TESTING OF

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NETWORK HARDWARE AND SOFTWARE. (a) The department shall adopt rules requiring, in state agency contracts for network hardware and software, a statement by the vendor certifying that the network hardware or software, as applicable, has undergone independent certification testing for known and relevant vulnerabilities.

(b) Rules adopted under Subsection (a) may:

(1) provide for vendor exemptions; and

(2) establish certification standards for testing network hardware and software for known and relevant vulnerabilities.

(c) Unless otherwise provided by rule, the required certification testing must be conducted under maximum load conditions in accordance with published performance claims of a hardware or software manufacturer, as applicable.

SECTION 8. (a) The Department of Information Resources shall adopt the rules required by Section 2059.060, Government Code, as added by this Act, not later than September 1, 2010.

(b) The change in law made by Section 2059.060, Government Code, as added by this Act, applies only to a contract entered into on or after December 1, 2010

SECTION 9. Same as House version.

No equivalent provision.

SECTION 6. This Act takes effect September 1, 2009.