

By: Martinez

H.B. No. 68

A BILL TO BE ENTITLED

AN ACT

relating to notice concerning the use of criminal history information in an employer's hiring process.

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

SECTION 1. Title 3, Labor Code, is amended by adding Chapter 105 to read as follows:

CHAPTER 105. USE OF CRIMINAL HISTORY INFORMATION IN HIRING PROCESS

Sec. 105.001. DEFINITIONS. In this chapter:

(1) "Applicant" means a person who has made an oral or written application with an employer, or has sent a resume or other correspondence to an employer, indicating an interest in employment.

(2) "Commission" means the Texas Workforce Commission civil rights division.

(3) "Criminal history information" means information collected about a person that consists of identifiable descriptions and notations concerning the person's being arrested, detained by a law enforcement agency, or indicted or otherwise formally charged with a crime and the disposition, if any, of any arrest, detention, or indictment or charge. The term does not include driving record information maintained by the Department of Public Safety under Subchapter C, Chapter 521, Transportation Code.

(4) "Employer" means a person who has one or more employees or other individuals who perform services under a

1 contract of hire or service, whether express or implied, or written  
2 or oral.

3 Sec. 105.002. EXPLANATION CONCERNING CRIMINAL HISTORY  
4 INFORMATION CONCERNING APPLICANT. Not later than the 10th day  
5 after the date an employer notifies an applicant that the employer  
6 will not be making an offer of employment to the applicant based  
7 wholly or partly on criminal history information concerning the  
8 applicant, the employer shall provide the applicant a written  
9 explanation containing:

10 (1) an identification of the specific arrest,  
11 detention, indictment or charge, or disposition that influenced the  
12 employer's decision to not make an offer of employment; and

13 (2) the entity from which the employer obtained the  
14 criminal history information, including the name, mailing address,  
15 and telephone number of the entity.

16 Sec. 105.003. RULES; ENFORCEMENT. (a) The commission  
17 shall adopt rules prescribing the form of the explanation required  
18 under Section 105.002.

19 (b) An applicant who does not receive the explanation  
20 required under Section 105.002 may file a written, sworn complaint  
21 with the commission. The commission shall review and resolve a  
22 complaint filed under this subsection in the same manner as a  
23 complaint concerning an unlawful employment practice filed under  
24 Chapter 21.

25 SECTION 2. Chapter 105, Labor Code, as added by this Act,  
26 applies only to a person who applies for employment or otherwise  
27 indicates interest in employment on or after the effective date of

1 this Act.

2 SECTION 3. This Act takes effect September 1, 2011.