

By: Gonzalez

H.B. No. 2737

A BILL TO BE ENTITLED

1 AN ACT
2 relating to criminal history record information checks of employees
3 of residential dwelling projects, including employees of public
4 housing authorities.

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

6 SECTION 1. Section 411.081(i), Government Code, as amended
7 by Chapters 183 (H.B. 1830), 780 (S.B. 1056), 816 (S.B. 1599), and
8 1027 (H.B. 4343), Acts of the 81st Legislature, Regular Session,
9 2009, is reenacted and amended to read as follows:

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

- 14 (1) the State Board for Educator Certification;
- 15 (2) a school district, charter school, private school,
16 regional education service center, commercial transportation
17 company, or education shared service arrangement;
- 18 (3) the Texas Medical Board;
- 19 (4) the Texas School for the Blind and Visually
20 Impaired;
- 21 (5) the Board of Law Examiners;
- 22 (6) the State Bar of Texas;
- 23 (7) a district court regarding a petition for name
24 change under Subchapter B, Chapter 45, Family Code;

- 1 (8) the Texas School for the Deaf;
- 2 (9) the Department of Family and Protective Services;
- 3 (10) the Texas Youth Commission;
- 4 (11) the Department of Assistive and Rehabilitative
- 5 Services;
- 6 (12) the Department of State Health Services, a local
- 7 mental health service, a local mental retardation authority, or a
- 8 community center providing services to persons with mental illness
- 9 or retardation;
- 10 (13) the Texas Private Security Board;
- 11 (14) a municipal or volunteer fire department;
- 12 (15) the Texas Board of Nursing;
- 13 (16) a safe house providing shelter to children in
- 14 harmful situations;
- 15 (17) a public or nonprofit hospital or hospital
- 16 district;
- 17 (18) the Texas Juvenile Probation Commission;
- 18 (19) the securities commissioner, the banking
- 19 commissioner, the savings and mortgage lending commissioner, or the
- 20 credit union commissioner;
- 21 (20) the Texas State Board of Public Accountancy;
- 22 (21) the Texas Department of Licensing and Regulation;
- 23 (22) the Health and Human Services Commission;
- 24 (23) the Department of Aging and Disability Services;
- 25 (24) the Texas Education Agency; [~~and~~]
- 26 (25) the Guardianship Certification Board; [~~and~~]
- 27 (26) a county clerk's office in relation to a

1 proceeding for the appointment of a guardian under Chapter XIII,
2 Texas Probate Code;

3 (27) [~~(25)~~] the Department of Information Resources
4 but only regarding an employee, applicant for employment,
5 contractor, subcontractor, intern, or volunteer who provides
6 network security services under Chapter 2059 to:

7 (A) the Department of Information Resources; or

8 (B) a contractor or subcontractor of the
9 Department of Information Resources;

10 (28) [~~(25)~~] the Court Reporters Certification Board;
11 [~~and~~]

12 (29) [~~(25)~~] the Texas Department of Insurance; and

13 (30) a housing authority, as defined by Section
14 392.002, Local Government Code.

15 SECTION 2. Sections 411.118(a) and (b), Government Code,
16 are amended to read as follows:

17 (a) In this section, "employer" [~~"employer," "employee,"~~
18 ~~"occupant,"~~] and "residential dwelling project" have the meanings
19 assigned by Section 765.001, Health and Safety Code.

20 (b) An employer is entitled to obtain from the department
21 criminal history record information maintained by the department
22 that pertains to a person who:

23 (1) is an applicant for a position of employment in a
24 residential dwelling project to whom an offer of employment is
25 made; or [~~and~~]

26 (2) is employed in a residential dwelling project [~~may~~
27 ~~be reasonably required to have access to the residence of an~~

1 occupant].

2 SECTION 3. Section 765.002(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) This chapter applies to:

5 (1) each applicant for a position of employment in a
6 residential dwelling project to whom an offer of employment is
7 made; and

8 (2) each person employed in a residential dwelling
9 project [~~and who, in the course and scope of the employment, may be~~
10 ~~reasonably required to have access to a dwelling in the residential~~
11 ~~dwelling project~~].

12 SECTION 4. Sections 765.003(a), (c), (d), and (e), Health
13 and Safety Code, are amended to read as follows:

14 (a) An employer may request an applicant to disclose to the
15 employer the applicant's criminal history at any time before or
16 after an offer of employment is made to the applicant, including
17 during any period of employment resulting from the offer. Any time
18 after [~~After~~] an offer of employment is made, including during any
19 period of employment resulting from the offer, the employer may
20 verify through the department any criminal history record
21 information that is maintained by the department relating to the
22 [~~that~~] applicant or employee and that the department is authorized
23 to release under Chapter 411, Government Code. The employer may
24 verify the information only in compliance with this section and
25 with the authorization of the individual who is the subject of the
26 criminal history record information [~~applicant and in compliance~~
27 ~~with this section~~].

1 (c) The department may adopt rules relating to an employer's
2 access to criminal history record information, including
3 requirements for submission of:

4 (1) the employer's complete name, current street
5 address, and federal employer identification number;

6 (2) an affidavit by an authorized representative of
7 the employer stating that the employer currently employs or has
8 offered a position of employment in a residential dwelling project
9 to the individual whose criminal history is requested [~~has been~~
10 ~~offered a position of employment by the employer in a residential~~
11 ~~dwelling project and that, in the course and scope of the~~
12 ~~employment, the individual may be reasonably required to have~~
13 ~~access to a dwelling in the residential dwelling project~~]; and

14 (3) the complete name, date of birth, social security
15 number, and current street address of the individual signing the
16 affidavit.

17 (d) An affidavit submitted under Subsection (c) must
18 include a statement, executed by the employed individual or
19 individual offered the position of employment, as applicable, that
20 authorizes the employer to obtain the criminal history record of
21 the individual.

22 (e) The department may not provide an employer with the
23 criminal history record information of an applicant or employee
24 under this chapter unless the employer is entitled to receive the
25 information under Section 411.118, Government Code.

26 SECTION 5. To the extent of any conflict, this Act prevails
27 over another Act of the 82nd Legislature, Regular Session, 2011,

H.B. No. 2737

1 relating to nonsubstantive additions to and corrections in enacted
2 codes.

3 SECTION 6. This Act takes effect September 1, 2011.