

BILL ANALYSIS

C.S.H.B. 694
By: Phillips
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, the criminal history records of juveniles are sealed, with certain exceptions. Interested parties note that a background check will be flagged if a person has a juvenile record but that information as to the nature of the offense will not be provided. The parties further note that, as a result of this policy, military personnel cannot access a juvenile record of an applicant for enlistment in the U.S. military, even with the applicant's written consent. There is concern that an applicant with a minor, nonviolent juvenile record can be denied entrance into the military because the recruiter cannot access the juvenile record. C.S.H.B. 694 seeks to remedy this situation by allowing military personnel, on written consent of an applicant for enlistment, to access the applicant's juvenile record.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 694 amends the Family Code to authorize the Department of Public Safety (DPS) to permit access to the information in the juvenile justice information system relating to the case of an individual, with the individual's written permission, by military personnel, including a recruiter, of this state or the United States if the individual is an applicant for enlistment in the military. The bill authorizes the Texas Juvenile Justice Department, a juvenile probation department, a clerk of the court, a prosecutor's office, or a law enforcement agency that maintains records relating to a juvenile case to allow military personnel, including a recruiter, of this state or the United States, to access those juvenile records in the same manner authorized by law for those records to which access has not been restricted.

C.S.H.B. 694 amends the Government Code to entitle a branch of the U.S. military, including a recruiter for the branch, to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an applicant for enlistment in the U.S. military. The bill entitles a branch of the U.S. military to such information only if the branch submits to DPS a signed statement from the applicant that authorizes the branch to obtain the information. The bill prohibits the release of criminal history record information obtained by a branch of the U.S. military under the bill's provisions to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information. The bill requires a branch of the U.S. military to destroy criminal history record information obtained under the bill's provisions after the purpose for which the information was obtained is accomplished.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 694 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 58.204(b), Family Code, is amended to read as follows:

(b) On certification of records in a case under Section 58.203, the department may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; [or]

(2) for research purposes, by the Texas Juvenile Justice Department [~~Probation Commission, the Texas Youth Commission,~~] or the Criminal Justice Policy Council; or

(3) with the permission of the individual, by military personnel, including a recruiter, of this state or the United States if the individual is an applicant for enlistment in the armed forces.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 58.204(b), Family Code, is amended to read as follows:

(b) On certification of records in a case under Section 58.203, the department may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; [or]

(2) for research purposes, by the Texas Juvenile Justice Department [~~Probation Commission, the Texas Youth Commission,~~] or the Criminal Justice Policy Council; or

(3) with the **written** permission of the individual, by military personnel, including a recruiter, of this state or the United States if the individual is an applicant for enlistment in the armed forces.

SECTION 2. Section 58.207, Family Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):

(A) if the respondent was committed to the Texas Juvenile Justice Department [~~Youth Commission~~], records maintained by the department [~~commission~~];

(B) records maintained by the juvenile probation department;

(C) records maintained by the clerk of the court;

(D) records maintained by the prosecutor's office; and

(E) records maintained by a law enforcement agency; and

(2) the juvenile probation department to make a reasonable effort to notify the person who is the subject of records for

which access has been restricted of the action restricting access and the legal significance of the action for the person, but only if the person has requested the notification in writing and has provided the juvenile probation department with a current address.

(c) Notwithstanding Subsection (b) of this section and Section 58.206(b), with the written permission of the subject of the records, an agency under Subsection (a)(1) may allow military personnel, including a recruiter, of this state or the United States to access juvenile records in the same manner authorized by law for records to which access has not been restricted under this section.

SECTION 2. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1410.

SECTION 3. Same as introduced version.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.