

BILL ANALYSIS

C.S.H.B. 2733
By: White
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that recent legislative efforts regarding the administration and operation of the Texas Juvenile Justice Department need clarification. C.S.H.B. 2733 seeks to address this concern.

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. 2733 amends the Government Code to entitle the Texas Juvenile Justice Department (TJJD) to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to an applicant for or a holder of a certification from TJJD, to a child committed to the custody of TJJD by a juvenile court, to a person requesting visitation access to a TJJD facility, or to any person, as necessary to conduct an evaluation of the home to which a child is released under supervision by TJJD. The bill includes a juvenile board by which a certification applicant or holder is employed among the entities to whom criminal history record information obtained by TJJD from DPS may be released. The bill requires TJJD, after certifying a person, to destroy the criminal history record information that relates to an applicant for a DPS certification. The bill establishes that TJJD is not prohibited from disclosing criminal history record information obtained from DPS in a criminal proceeding or in a hearing conducted by TJJD. The bill repeals a provision authorizing an abolished agency to obtain from DPS criminal history record information.

C.S.H.B. 2733 excepts from a statutory provision making public information of a governmental body available to the public certain personal information of a current or former employee of TJJD or the predecessors in function of TJJD, regardless of whether the current or former employee appropriately notifies a governmental body of the individual's choice to restrict public access to the information, a juvenile probation or supervision officer certified by TJJD, or the predecessors in function of TJJD, under statutory provisions relating to juvenile justice services and facilities, and employees of a juvenile justice program or facility. The bill makes certain personal information of such persons confidential and prohibits public disclosure of the information if the person chooses to restrict public access to that information and appropriately notifies a governmental body.

C.S.H.B. 2733 amends the Human Resources Code to authorize the Texas Juvenile Justice Board to delegate to the executive director of TJJD or to any other employee any authority given to the board except the authority to adopt rules. The bill includes the director of state programs and facilities of TJJD or the director's designee in the composition of the advisory council on juvenile services.

C.S.H.B. 2733, in statutory provisions relating to standards for and regulation of certain juvenile

justice officers and employees, replaces references to a detention officer with references to a supervision officer.

C.S.H.B. 2733 requires TJJD to make a report on the effectiveness of TJJD's programs for the rehabilitation and reestablishment in society of children committed to TJJD to the Legislative Budget Board on or before December 31 of each even-numbered year, rather than each year. The bill changes the deadline by which TJJD is required to provide the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities, if TJJD is unable to offer or make available such programs to children in TJJD custody in the manner required by law, with a report explaining which TJJD programs are not offered or are unavailable and the reason the programs are not offered or are unavailable. The bill changes this deadline from not later than January 10 of each odd-numbered year to December 31 of each even-numbered year.

C.S.H.B. 2733 requires TJJD, rather than the executive director of TJJD, to review the national criminal history record information, state criminal history record information maintained by DPS, and previous and current employment references of certain persons working with TJJD facilities or with children supervised by TJJD. The bill specifies that such information must be reviewed as it relates to a contractor or an employee or subcontractor of a contractor who has direct access to children in TJJD facilities, rather than a contractor working for TJJD or working in a facility owned by or under contract with TJJD. The bill authorizes TJJD to review criminal history record information of a person requesting visitation access to a TJJD facility or of any person, as necessary to conduct an evaluation of the home to which a child is released under supervision by TJJD. The bill extends from December 1 to December 31 of each even-numbered year the deadline by which TJJD is required to deliver a report of the results of research conducted or coordinated to determine whether TJJD's comprehensive reentry and reintegration plan reduces recidivism rates.

C.S.H.B. 2733 repeals Section 411.137, Government Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2733 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. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.154 to read as follows:

Art. 17.154. DENIAL OF BAIL FOR VIOLENCE AT A JUVENILE STATE CORRECTIONAL FACILITY. (a) This article applies to a defendant who has been adjudicated under Title 3, Family Code, and committed to the custody of the Texas Juvenile Justice Department.

(b) Bail may be denied for the following offenses, if the offense is a felony and is committed by a person 17 years of age or

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

older while the person is confined in a facility operated by or under contract with the Texas Juvenile Justice Department:

(1) an offense alleged under Chapter 22, Penal Code; or

(2) any offense in which the victim of the alleged offense is a public servant, as defined by Section 1.07, Penal Code.

SECTION 2. Section 411.1141, Government Code, is amended to read as follows:

Sec. 411.1141. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS JUVENILE JUSTICE DEPARTMENT ~~[YOUTH COMMISSION]~~.

(a) The Texas Juvenile Justice Department is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person described by Section 242.010(b), Human Resources Code;

(2) an applicant for a certification from the department; or

(3) a holder of a certification from the department.

(b) Criminal history record information obtained by the Texas Juvenile Justice Department ~~[Youth Commission]~~ under Subsection (a) may not be released to any person except:

(1) on court order;

(2) with the consent of the entity or person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held, or an investigation conducted, by the Texas Juvenile Justice Department ~~[Youth Commission]~~ concerning the person who is the subject of the criminal history record information; ~~[or]~~

(4) a juvenile board by which a certification applicant or holder is employed; or

(5) as provided by Subsection (c) or (f).

SECTION 1. Section 411.1141, Government Code, is amended to read as follows:

Sec. 411.1141. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS JUVENILE JUSTICE DEPARTMENT ~~[YOUTH COMMISSION]~~.

(a) The Texas Juvenile Justice Department is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person described by Section 242.010(b), Human Resources Code;

(2) an applicant for a certification from the Texas Juvenile Justice Department;

(3) a holder of a certification from the Texas Juvenile Justice Department;

(4) a child committed to the custody of the Texas Juvenile Justice Department by a juvenile court;

(5) a person requesting visitation access to a facility of the Texas Juvenile Justice Department; or

(6) any person, as necessary to conduct an evaluation of the home under Section 245.051(a), Human Resources Code.

(b) Criminal history record information obtained by the Texas Juvenile Justice Department ~~[Youth Commission]~~ under Subsection (a) may not be released to any person except:

(1) on court order;

(2) with the consent of the entity or person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held, or an investigation conducted, by the Texas Juvenile Justice Department ~~[Youth Commission]~~ concerning the person who is the subject of the criminal history record information; ~~[or]~~

(4) a juvenile board by which a certification applicant or holder is employed; or

(5) as provided by Subsection (c) or (f).

(c) The Texas Juvenile Justice Department [~~Youth Commission~~] is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

(1) the person who is the subject of the criminal history record information; or
(2) a business entity or person described by Subsection (a)(1) [~~(a)(4) or (a)(5)~~] who uses or intends to use the services of the volunteer or intern or employs or is considering employing the person who is the subject of the criminal history record information.

(d) The Texas Juvenile Justice Department [~~Youth Commission~~] may charge an entity or a person who requests criminal history record information under Subsection (c)(2) [~~(a)(4) or (a)(5)~~] a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

(e) After a person is certified by the Texas Juvenile Justice Department, the Texas Juvenile Justice Department shall destroy the criminal history record information that relates to a person described by Subsection (a)(2).

(f) The Texas Juvenile Justice Department is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Juvenile Justice Department.

SECTION 3. Section 552.117(a), Government Code, is amended to read as follows:

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following person or that reveals whether the person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;
(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(c) The Texas Juvenile Justice Department [~~Youth Commission~~] is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

(1) the person who is the subject of the criminal history record information; or
(2) a business entity or person described by Subsection (a)(1) [~~(a)(4) or (a)(5)~~] who uses or intends to use the services of the volunteer or intern or employs or is considering employing the person who is the subject of the criminal history record information.

(d) The Texas Juvenile Justice Department [~~Youth Commission~~] may charge an entity or a person who requests criminal history record information under Subsection (c)(2) [~~(a)(4) or (a)(5)~~] a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

(e) After a person is certified by the Texas Juvenile Justice Department, the Texas Juvenile Justice Department shall destroy the criminal history record information that relates to a person described by Subsection (a)(2).

(f) The Texas Juvenile Justice Department is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Juvenile Justice Department.

SECTION 2. Section 552.117(a), Government Code, is amended to read as follows:

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following person or that reveals whether the person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;
(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(3) a current or former employee of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with Section 552.1175;

(4) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section 552.024 or 552.1175;

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(6) an officer or employee of a community supervision and corrections department established under Chapter 76 who performs a duty described by Section 76.004(b), regardless of whether the officer or employee complies with Section 552.024 or 552.1175; [øø]

(7) a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(8) a current or former employee of the Texas Juvenile Justice Department or of the predecessors in function of the department, regardless of whether the current or former employee complies with Section 552.1175;

(9) a juvenile probation or supervision officer certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code; or

(10) employees of a juvenile justice department or a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code.

SECTION 4. The heading to Section 552.1175, Government Code, is amended.

(3) a current or former employee of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with Section 552.1175;

(4) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section 552.024 or 552.1175;

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(6) an officer or employee of a community supervision and corrections department established under Chapter 76 who performs a duty described by Section 76.004(b), regardless of whether the officer or employee complies with Section 552.024 or 552.1175; [øø]

(7) a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(8) a current or former employee of the Texas Juvenile Justice Department or of the predecessors in function of the department, regardless of whether the current or former employee complies with Section 552.1175;

(9) a juvenile probation or supervision officer certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code; or

(10) employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code.

SECTION 3. Same as introduced version.

SECTION 5. Section 552.1175(a), Government Code, is amended to read as follows:

- (a) This section applies only to:
- (1) peace officers as defined by Article 2.12, Code of Criminal Procedure;
 - (2) county jailers as defined by Section 1701.001, Occupations Code;
 - (3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;
 - (4) commissioned security officers as defined by Section 1702.002, Occupations Code;
 - (5) employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;
 - (6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);
 - (7) criminal investigators of the United States as described by Article 2.122(a), Code of Criminal Procedure;
 - (8) police officers and inspectors of the United States Federal Protective Service; ~~[and]~~
 - (9) current and former employees of the office of the attorney general who are or were assigned to a division of that office the duties of which involve law enforcement;
 - (10) juvenile probation and supervision officers certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code;
 - (11) employees of a juvenile justice department or a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code; and
 - (12) current or former employees of the Texas Juvenile Justice Department or the predecessors in function of the department.

SECTION 6. Section 203.001, Human Resources Code, is amended.

SECTION 7. Section 203.0081(a), Human Resources Code, is amended.

SECTION 4. Section 552.1175(a), Government Code, is amended to read as follows:

- (a) This section applies only to:
- (1) peace officers as defined by Article 2.12, Code of Criminal Procedure;
 - (2) county jailers as defined by Section 1701.001, Occupations Code;
 - (3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;
 - (4) commissioned security officers as defined by Section 1702.002, Occupations Code;
 - (5) employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;
 - (6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);
 - (7) criminal investigators of the United States as described by Article 2.122(a), Code of Criminal Procedure;
 - (8) police officers and inspectors of the United States Federal Protective Service; ~~[and]~~
 - (9) current and former employees of the office of the attorney general who are or were assigned to a division of that office the duties of which involve law enforcement;
 - (10) juvenile probation and supervision officers certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code;
 - (11) employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code; and
 - (12) current or former employees of the Texas Juvenile Justice Department or the predecessors in function of the department.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 8. Section 222.002, Human Resources Code, is amended.

SECTION 9. Section 222.003(b), Human Resources Code, is amended.

SECTION 10. The heading to Section 222.004, Human Resources Code, is amended.

SECTION 11. Section 222.004(a), Human Resources Code, is amended.

SECTION 12. Section 222.005(a), Human Resources Code, is amended.

SECTION 13. Sections 242.002(b) and (d), Human Resources Code, are amended.

SECTION 14. Sections 242.010(b), (c), and (d), Human Resources Code, are amended to read as follows:

(b) The department [~~executive director~~] shall review the national criminal history record information, state criminal history record information maintained by the Department of Public Safety, and previous and current employment references of each person who:

(1) is an employee, [~~contractor,~~] volunteer, ombudsman, or advocate working for the department or working in a department facility or a facility under contract with the department;

(2) is a contractor or an employee or subcontractor of a contractor who has direct access to children in department facilities;

(3) provides direct delivery of services to children in the custody of the department; or

(4) [~~(3)~~] has access to records in department facilities or offices.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.

SECTION 12. Same as introduced version.

SECTION 13. Section 242.010, Human Resources Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (b-1) to read as follows:

(b) The department [~~executive director~~] shall review the national criminal history record information, state criminal history record information maintained by the Department of Public Safety, and previous and current employment references of each person who:

(1) is an employee, [~~contractor,~~] volunteer, ombudsman, or advocate working for the department or working in a department facility or a facility under contract with the department;

(2) is a contractor or an employee or subcontractor of a contractor who has direct access to children in department facilities;

(3) provides direct delivery of services to children in the custody of the department; or

(4) [~~(3)~~] has access to records in department facilities or offices.

(b-1) The department may review criminal history record information of:

(1) a person requesting visitation access to a department facility; or

(2) any person, as necessary to conduct an

(c) To enable the department [~~executive director~~] to conduct the review, the board shall adopt rules requiring a person described by Subsection (b) to electronically provide the Department of Public Safety with a complete set of the person's fingerprints in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

(d) For each person described by Subsection (b), the department [~~executive director~~] shall review on an annual basis the person's national criminal history record information.

SECTION 15. Section 245.0535(i), Human Resources Code, is amended.

SECTION 16. Section 411.137, Government Code, is repealed.

SECTION 17. Article 17.154, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 18. This Act takes effect September 1, 2013.

evaluation of the home under Section 245.051(a).

(c) To enable the department [~~executive director~~] to conduct the review, the board shall adopt rules requiring a person described by Subsection (b) to electronically provide the Department of Public Safety with a complete set of the person's fingerprints in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

(d) For each person described by Subsection (b), the department [~~executive director~~] shall review on an annual basis the person's national criminal history record information.

SECTION 14. Substantially the same as introduced version.

SECTION 15. Same as introduced version.

No equivalent provision.

SECTION 16. Same as introduced version.