

## **BILL ANALYSIS**

Senate Research Center

S.B. 1044  
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Criminal Justice  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, public defender's offices are not authorized under statute to have fee-exempt access to Department of Public Safety of the State of Texas (DPS) criminal history record information. While some public defender's offices have access to this criminal history record information from the county in which they operate, many are unable to access criminal history information about offenses committed outside the county. Public defender's offices need access to this information to effectively represent defendants. In addition, fee-exempt access to DPS criminal history record information conserves county resources, as public defender's offices must currently pay for criminal history information obtained through private background check services or DPS's public criminal history record information service.

S.B. 1044 amends current law relating to access to criminal history record information by certain entities, including certain local government corporations, public defender's offices, and the office of capital writs, and to an exemption for those offices from fees imposed for processing inquiries for that information.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 411.082, Government Code, by adding Subdivisions (5) and (6), to define "office of capital writs" and "public defender's office."

SECTION 2. Amends Section 411.088, Government Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes the Department of Public Safety of the State of Texas (DPS), except as otherwise provided by Subsection (a-1), to charge a person a fee for processing inquiries for criminal history record information. Deletes existing text authorizing DPS to charge a person that is not primarily a criminal justice agency a fee for processing inquiries for criminal history record information.

(a-1) Prohibits DPS from charging a fee under Subsection (a) for providing criminal history record information to a criminal justice agency, the office of capital writs, or a public defender's office.

SECTION 3. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1272, as follows:

Sec. 411.1272. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: OFFICE OF CAPITAL WRITS AND PUBLIC DEFENDER'S OFFICES. Entitles the office of capital writs and a public defender's office to obtain from DPS criminal history record information maintained by DPS that relates to a criminal case in which an attorney compensated by the office of capital writs or by the public defender's office has been appointed.

SECTION 4. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1301, as follows:

Sec. 411.1301. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN LOCAL GOVERNMENT CORPORATIONS ENGAGED IN CRIMINAL IDENTIFICATION ACTIVITIES. (a) Provides that this section applies only to a local government corporation that is created under Subchapter D (Local Government Corporations), Chapter 431 (Texas Transportation Corporation Act), Transportation Code, for governmental purposes relating to criminal identification activities, including forensic analysis, and that allocates a substantial part of its annual budget to those criminal identification activities.

(b) Entitles a local government corporation described by Subsection (a) to obtain from DPS criminal history record information maintained by DPS that relates to a person who:

(1) is an employee or an applicant for employment with the local government corporation;

(2) is a consultant, intern, or volunteer for the local government corporation or an applicant to serve as a consultant, intern, or volunteer;

(3) proposes to enter into a contract with or has a contract with the local government corporation to perform services for or supply goods to the local government corporation; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the local government corporation.

(c) Prohibits criminal history record information obtained by a local government corporation under Subsection (b) from being released or disclosed to any person except:

(1) on court order; or

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

SECTION 5. Effective date: September 1, 2013.