

## **BILL ANALYSIS**

S.B. 1044  
By: Rodríguez  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

A public defender's office currently is not entitled under Texas statute to fee-exempt access to criminal history record information maintained by the Department of Public Safety (DPS). While some public defender's offices have access to such criminal history record information through the county in which an office operates, many are unable to access such information regarding offenses committed outside of their respective counties. Interested parties assert that public defender's offices need access to relevant criminal history record information maintained by DPS to effectively represent defendants and that such access would conserve county resources, as the offices must currently pay for criminal history information obtained through private background check services or DPS services. Additionally, there is concern that local government corporations formed to conduct criminal identification activity for governmental purposes, such as law enforcement, lack statutory authority to perform background checks for personnel with access to evidence, chain of custody paperwork, and facilities where forensic testing is conducted. S.B. 1044 seeks to address these issues by entitling a public defender's office, the office of capital writs, and certain local government corporations created for criminal identification-related activities to obtain criminal history record information maintained by DPS relating to certain criminal cases.

### **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**

S.B. 1044 amends the Government Code to entitle the office of capital writs and a public defender's office to obtain from the Department of Public Safety (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. The bill prohibits DPS from charging a fee for providing criminal history record information to the office of capital writs or a public defender's office. The bill entitles a local government corporation created 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, to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an employee or an applicant for employment with the local government corporation; is a consultant, intern, or volunteer for the local government corporation or an applicant to serve as a consultant, intern, or volunteer; 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 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. The bill prohibits such criminal history record information obtained by a local government corporation from being released or disclosed to any person except on court order, or with the consent of the person who is the subject of the criminal history record information.

**EFFECTIVE DATE**

September 1, 2013.