

By: Price

H.B. No. 729

A BILL TO BE ENTITLED

1 AN ACT
2 relating to access to criminal history record information by
3 certain hospitals and other facilities.

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

5 SECTION 1. Sections 411.136(b) and (d), Government Code,
6 are amended to read as follows:

7 (b) A public or nonprofit hospital or hospital district is
8 entitled to obtain from the department criminal history record
9 information maintained by the department that relates to a person
10 who is:

11 (1) an applicant for employment or a volunteer
12 position with the hospital or district;

13 (2) an employee of or a volunteer with the hospital or
14 district; ~~or~~

15 (3) an applicant for employment with or an employee of
16 a person or business that contracts with the hospital or district;
17 or

18 (4) a student enrolled in an educational program or
19 course of study who is at the hospital or a hospital owned or
20 operated by the district for educational purposes.

21 (d) The public or nonprofit hospital or hospital district
22 may dismiss a person or deny a person employment or a volunteer
23 position or refuse to allow a person to work in a hospital or
24 district facility if:

1 (1) the person fails or refuses to provide information
2 described by Subsection (c); or

3 (2) the person's criminal history record information
4 reveals a conviction or deferred adjudication that renders the
5 person unqualified or unsuitable for employment or a volunteer
6 position or to be present at a hospital for educational purposes.

7 SECTION 2. Section 411.1387, Government Code, is amended by
8 amending Subsections (b), (c), and (e) and adding Subsection (b-1)
9 to read as follows:

10 (b) A [~~facility,~~] regulatory agency[~~, or private agency on~~
11 ~~behalf of a facility~~] is entitled to obtain from the department
12 criminal history record information maintained by the department
13 that relates to a person who is:

14 (1) an applicant for employment at or an employee of a
15 facility other than a facility licensed under Chapter 142, Health
16 and Safety Code; or

17 (2) an applicant for employment at or an employee of a
18 facility licensed under Chapter 142, Health and Safety Code, if the
19 duties of employment involve direct contact with a consumer in the
20 facility.

21 (b-1) A facility or a private agency on behalf of a facility
22 is entitled to obtain from the department criminal history record
23 information maintained by the department that relates to a person
24 who is:

25 (1) an applicant for employment with, an employee of,
26 or a volunteer with the facility;

27 (2) an applicant for employment with or an employee of

1 a person or business that contracts with the facility; or

2 (3) a student enrolled in an educational program or
3 course of study who is at the facility for educational purposes.

4 (c) A facility may:

5 (1) obtain directly from the department criminal
6 history record information on a person [~~an applicant or employee~~]
7 described by Subsection (b-1) [~~(b)~~]; or

8 (2) authorize a private agency to obtain that
9 information from the department.

10 (e) Criminal history record information obtained by a
11 facility, regulatory agency, or private agency on behalf of a
12 facility under Subsection (b) or (b-1) may not be released or
13 disclosed to any person or agency except on court order or with the
14 consent of the person who is the subject of the information.

15 SECTION 3. Section 250.002, Health and Safety Code, is
16 amended by amending Subsections (a) and (b) and adding Subsection
17 (a-1) to read as follows:

18 (a) A [~~facility, a~~] regulatory agency or [~~7~~] a financial
19 management services agency on behalf of an individual employer [~~7~~ ~~or~~
20 ~~a private agency on behalf of a facility~~] is entitled to obtain from
21 the Department of Public Safety of the State of Texas criminal
22 history record information maintained by the Department of Public
23 Safety that relates to a person who is:

24 (1) an applicant for employment at a facility other
25 than a facility licensed under Chapter 142;

26 (2) an employee of a facility other than a facility
27 licensed under Chapter 142;

1 (3) an applicant for employment at or an employee of a
2 facility licensed under Chapter 142 whose employment duties would
3 or do involve direct contact with a consumer in the facility; or

4 (4) an applicant for employment by or an employee of an
5 individual employer.

6 (a-1) A facility or a private agency on behalf of a facility
7 is entitled to obtain from the Department of Public Safety of the
8 State of Texas criminal history record information maintained by
9 the Department of Public Safety that relates to a person who is:

10 (1) an applicant for employment with, an employee of,
11 or a volunteer with the facility;

12 (2) an applicant for employment with or an employee of
13 a person or business that contracts with the facility;

14 (3) an applicant for employment by or an employee of an
15 individual employer; or

16 (4) a student enrolled in an educational program or
17 course of study who is at the facility for educational purposes.

18 (b) A facility may:

19 (1) pay a private agency to obtain criminal history
20 record information for a person [~~an applicant or employee~~]
21 described by Subsection (a-1) [~~(a)~~] directly from the Department of
22 Public Safety of the State of Texas; or

23 (2) obtain the information directly from the
24 Department of Public Safety.

25 SECTION 4. Section 411.081(i), Government Code, is amended
26 to read as follows:

27 (i) A criminal justice agency may disclose criminal history

1 record information that is the subject of an order of nondisclosure
2 under Subsection (d) to the following noncriminal justice agencies
3 or entities only:

4 (1) the State Board for Educator Certification;

5 (2) a school district, charter school, private school,
6 regional education service center, commercial transportation
7 company, or education shared service arrangement;

8 (3) the Texas Medical Board;

9 (4) the Texas School for the Blind and Visually
10 Impaired;

11 (5) the Board of Law Examiners;

12 (6) the State Bar of Texas;

13 (7) a district court regarding a petition for name
14 change under Subchapter B, Chapter 45, Family Code;

15 (8) the Texas School for the Deaf;

16 (9) the Department of Family and Protective Services;

17 (10) the Texas Youth Commission;

18 (11) the Department of Assistive and Rehabilitative
19 Services;

20 (12) the Department of State Health Services, a local
21 mental health service, a local mental retardation authority, or a
22 community center providing services to persons with mental illness
23 or retardation;

24 (13) the Texas Private Security Board;

25 (14) a municipal or volunteer fire department;

26 (15) the Texas Board of Nursing;

27 (16) a safe house providing shelter to children in

1 harmful situations;

2 (17) a public or nonprofit hospital or hospital
3 district, or a facility as defined by Section 250.001, Health and
4 Safety Code;

5 (18) the Texas Juvenile Probation Commission;

6 (19) the securities commissioner, the banking
7 commissioner, the savings and mortgage lending commissioner, the
8 consumer credit commissioner, or the credit union commissioner;

9 (20) the Texas State Board of Public Accountancy;

10 (21) the Texas Department of Licensing and Regulation;

11 (22) the Health and Human Services Commission;

12 (23) the Department of Aging and Disability Services;

13 (24) the Texas Education Agency;

14 (25) the Guardianship Certification Board;

15 (26) a county clerk's office in relation to a
16 proceeding for the appointment of a guardian under Chapter XIII,
17 Texas Probate Code;

18 (27) the Department of Information Resources but only
19 regarding an employee, applicant for employment, contractor,
20 subcontractor, intern, or volunteer who provides network security
21 services under Chapter 2059 to:

22 (A) the Department of Information Resources; or

23 (B) a contractor or subcontractor of the
24 Department of Information Resources;

25 (28) the Court Reporters Certification Board;

26 (29) the Texas Department of Insurance; and

27 (30) the Teacher Retirement System of Texas.

1 SECTION 5. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2013.