

1-1 By: Price (Senate Sponsor - Deuell) H.B. No. 729
1-2 (In the Senate - Received from the House April 22, 2013;
1-3 April 24, 2013, read first time and referred to Committee on
1-4 Criminal Justice; May 9, 2013, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 9, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Huffman	X		
1-10	Carona	X		
1-11	Hinojosa	X		
1-12	Patrick	X		
1-13	Rodriguez	X		
1-14	Schwertner	X		

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to access to criminal history record information by
1-18 certain hospitals and other facilities.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Sections 411.136(b) and (d), Government Code,
1-21 are amended to read as follows:

1-22 (b) A public or nonprofit hospital or hospital district is
1-23 entitled to obtain from the department criminal history record
1-24 information maintained by the department that relates to a person
1-25 who is:

1-26 (1) an applicant for employment or a volunteer
1-27 position with the hospital or district;

1-28 (2) an employee of or a volunteer with the hospital or
1-29 district; ~~or~~

1-30 (3) an applicant for employment with or an employee of
1-31 a person or business that contracts with the hospital or district;
1-32 or

1-33 (4) a student enrolled in an educational program or
1-34 course of study who is at the hospital or a hospital owned or
1-35 operated by the district for educational purposes.

1-36 (d) The public or nonprofit hospital or hospital district
1-37 may dismiss a person or deny a person employment or a volunteer
1-38 position or refuse to allow a person to work in a hospital or
1-39 district facility if:

1-40 (1) the person fails or refuses to provide information
1-41 described by Subsection (c); or

1-42 (2) the person's criminal history record information
1-43 reveals a conviction or deferred adjudication that renders the
1-44 person unqualified or unsuitable for employment or a volunteer
1-45 position or to be present at a hospital for educational purposes.

1-46 SECTION 2. Section 411.1387, Government Code, is amended by
1-47 amending Subsections (b), (c), and (e) and adding Subsection (b-1)
1-48 to read as follows:

1-49 (b) A ~~[facility,] regulatory agency[, or private agency on~~
1-50 ~~behalf of a facility]~~ is entitled to obtain from the department
1-51 criminal history record information maintained by the department
1-52 that relates to a person who is:

1-53 (1) an applicant for employment at or an employee of a
1-54 facility other than a facility licensed under Chapter 142, Health
1-55 and Safety Code; or

1-56 (2) an applicant for employment at or an employee of a
1-57 facility licensed under Chapter 142, Health and Safety Code, if the
1-58 duties of employment involve direct contact with a consumer in the
1-59 facility.

1-60 (b-1) A facility or a private agency on behalf of a facility
1-61 is entitled to obtain from the department criminal history record

2-1 information maintained by the department that relates to a person
 2-2 who is:

2-3 (1) an applicant for employment with, an employee of,
 2-4 or a volunteer with the facility;

2-5 (2) an applicant for employment with or an employee of
 2-6 a person or business that contracts with the facility; or

2-7 (3) a student enrolled in an educational program or
 2-8 course of study who is at the facility for educational purposes.

2-9 (c) A facility may:

2-10 (1) obtain directly from the department criminal
 2-11 history record information on a person [~~an applicant or employee~~]
 2-12 described by Subsection (b-1) [~~(b)~~]; or

2-13 (2) authorize a private agency to obtain that
 2-14 information from the department.

2-15 (e) Criminal history record information obtained by a
 2-16 facility, regulatory agency, or private agency on behalf of a
 2-17 facility under Subsection (b) or (b-1) may not be released or
 2-18 disclosed to any person or agency except on court order or with the
 2-19 consent of the person who is the subject of the information.

2-20 SECTION 3. Section 250.002, Health and Safety Code, is
 2-21 amended by amending Subsections (a) and (b) and adding Subsection
 2-22 (a-1) to read as follows:

2-23 (a) A [~~facility, a~~] regulatory agency or [~~r~~] a financial
 2-24 management services agency on behalf of an individual employer [~~, or~~
 2-25 ~~a private agency on behalf of a facility~~] is entitled to obtain from
 2-26 the Department of Public Safety of the State of Texas criminal
 2-27 history record information maintained by the Department of Public
 2-28 Safety that relates to a person who is:

2-29 (1) an applicant for employment at a facility other
 2-30 than a facility licensed under Chapter 142;

2-31 (2) an employee of a facility other than a facility
 2-32 licensed under Chapter 142;

2-33 (3) an applicant for employment at or an employee of a
 2-34 facility licensed under Chapter 142 whose employment duties would
 2-35 or do involve direct contact with a consumer in the facility; or

2-36 (4) an applicant for employment by or an employee of an
 2-37 individual employer.

2-38 (a-1) A facility or a private agency on behalf of a facility
 2-39 is entitled to obtain from the Department of Public Safety of the
 2-40 State of Texas criminal history record information maintained by
 2-41 the Department of Public Safety that relates to a person who is:

2-42 (1) an applicant for employment with, an employee of,
 2-43 or a volunteer with the facility;

2-44 (2) an applicant for employment with or an employee of
 2-45 a person or business that contracts with the facility;

2-46 (3) an applicant for employment by or an employee of an
 2-47 individual employer; or

2-48 (4) a student enrolled in an educational program or
 2-49 course of study who is at the facility for educational purposes.

2-50 (b) A facility may:

2-51 (1) pay a private agency to obtain criminal history
 2-52 record information for a person [~~an applicant or employee~~]
 2-53 described by Subsection (a-1) [~~(a)~~] directly from the Department of
 2-54 Public Safety of the State of Texas; or

2-55 (2) obtain the information directly from the
 2-56 Department of Public Safety.

2-57 SECTION 4. Section 411.081(i), Government Code, is amended
 2-58 to read as follows:

2-59 (i) A criminal justice agency may disclose criminal history
 2-60 record information that is the subject of an order of nondisclosure
 2-61 under Subsection (d) to the following noncriminal justice agencies
 2-62 or entities only:

2-63 (1) the State Board for Educator Certification;

2-64 (2) a school district, charter school, private school,
 2-65 regional education service center, commercial transportation
 2-66 company, or education shared service arrangement;

2-67 (3) the Texas Medical Board;

2-68 (4) the Texas School for the Blind and Visually
 2-69 Impaired;

- 3-1 (5) the Board of Law Examiners;
- 3-2 (6) the State Bar of Texas;
- 3-3 (7) a district court regarding a petition for name
- 3-4 change under Subchapter B, Chapter 45, Family Code;
- 3-5 (8) the Texas School for the Deaf;
- 3-6 (9) the Department of Family and Protective Services;
- 3-7 (10) the Texas Youth Commission;
- 3-8 (11) the Department of Assistive and Rehabilitative
- 3-9 Services;
- 3-10 (12) the Department of State Health Services, a local
- 3-11 mental health service, a local mental retardation authority, or a
- 3-12 community center providing services to persons with mental illness
- 3-13 or retardation;
- 3-14 (13) the Texas Private Security Board;
- 3-15 (14) a municipal or volunteer fire department;
- 3-16 (15) the Texas Board of Nursing;
- 3-17 (16) a safe house providing shelter to children in
- 3-18 harmful situations;
- 3-19 (17) a public or nonprofit hospital or hospital
- 3-20 district, or a facility as defined by Section 250.001, Health and
- 3-21 Safety Code;
- 3-22 (18) the Texas Juvenile Probation Commission;
- 3-23 (19) the securities commissioner, the banking
- 3-24 commissioner, the savings and mortgage lending commissioner, the
- 3-25 consumer credit commissioner, or the credit union commissioner;
- 3-26 (20) the Texas State Board of Public Accountancy;
- 3-27 (21) the Texas Department of Licensing and Regulation;
- 3-28 (22) the Health and Human Services Commission;
- 3-29 (23) the Department of Aging and Disability Services;
- 3-30 (24) the Texas Education Agency;
- 3-31 (25) the Guardianship Certification Board;
- 3-32 (26) a county clerk's office in relation to a
- 3-33 proceeding for the appointment of a guardian under Chapter XIII,
- 3-34 Texas Probate Code;
- 3-35 (27) the Department of Information Resources but only
- 3-36 regarding an employee, applicant for employment, contractor,
- 3-37 subcontractor, intern, or volunteer who provides network security
- 3-38 services under Chapter 2059 to:
- 3-39 (A) the Department of Information Resources; or
- 3-40 (B) a contractor or subcontractor of the
- 3-41 Department of Information Resources;
- 3-42 (28) the Court Reporters Certification Board;
- 3-43 (29) the Texas Department of Insurance; and
- 3-44 (30) the Teacher Retirement System of Texas.

3-45 SECTION 5. This Act takes effect immediately if it receives
 3-46 a vote of two-thirds of all the members elected to each house, as
 3-47 provided by Section 39, Article III, Texas Constitution. If this
 3-48 Act does not receive the vote necessary for immediate effect, this
 3-49 Act takes effect September 1, 2013.

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