

BILL ANALYSIS

Senate Research Center

S.B. 1540
By: Perry
Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Within the Health and Human Services Commission (HHSC), certain staff have significant access to information and/or systems that could potentially be misused to conduct illegal activities. This includes a range of personal, financial, and health information for individuals that are applying for or receiving HHSC benefits.

The risk for illegal activities could be mitigated by conducting criminal background checks on prospective and current employees in these positions. However, statutory authority is required in order for HHSC to begin conducting criminal background checks on its employees.

S.B. 1540 gives HHSC the authority to obtain criminal history record information for certain employees who handle sensitive personal or financial information.

As proposed, S.B. 1540 amends current law relating to the authority of the Health and Human Services Commission to obtain criminal history record information of certain applicants for employment and current employees.

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 Subchapter F, Chapter 411, Government Code, by adding Section 411.1106, as follows:

Sec. 411.1106. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) or the commissioner's designee to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to:

(1) an applicant for employment for a position in which the employee has access to sensitive personal or financial information, as determined by the executive commissioner, in certain divisions or programs as set forth; or

(2) a person who is currently employed by the Health and Human Services Commission (HHSC) and has access to sensitive personal or financial information, as determined by the executive commissioner.

(b) Prohibits criminal history record information obtained by the executive commissioner or the commissioner's designee under Subsection (a) from being released or disclosed unless the information is a public record at the time the executive commissioner obtains the information or the information is released or disclosed on order of a court, to a criminal justice agency, with the consent of the

person who is the subject of the criminal history record information, or in a criminal proceeding or in a hearing conducted by HHSC.

(c) Requires HHSC to destroy all criminal history record information obtained under Subsection (a) as soon as practicable after the information is used for its authorized purpose.

SECTION 2. Amends Subchapter A, Chapter 531, Government Code, by adding Section 531.0091, as follows:

Sec. 531.0091. **CRIMINAL BACKGROUND CHECKS.** (a) Entitles the executive commissioner to obtain from DPS criminal history record information maintained by DPS that relates to:

(1) an applicant for employment for a position in which the employee has access to sensitive personal or financial information, as determined by the executive commissioner, in divisions or programs as set forth; or

(2) a person who is currently employed by HHSC and has access to sensitive personal or financial information, as determined by the executive commissioner.

(b) Authorizes the executive commissioner to require a person described by Subsection (a) to submit fingerprints in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation (FBI) for use in conducting a criminal history background check.

(c) Requires that information obtained by the executive commissioner under this section be used only to evaluate the qualification or suitability for employment of persons described by Subsection (a).

(d) Requires the executive commissioner to keep confidential any information obtained under this section and prohibits the executive commissioner from releasing or disclosing the information unless:

(1) the information is a public record at the time the executive commissioner obtains the information; or

(2) the information is released or disclosed on order of a court, with the consent of the person who is the subject of the information, to a governmental agency entitled to receive such information, or in a criminal proceeding or in a hearing conducted by HHSC.

(e) Requires that criminal history record information obtained from the FBI, notwithstanding Subsection (d), be released or disclosed only to a governmental entity or as authorized by federal statute, federal rule, or federal executive order.

SECTION 3. Effective date: upon passage or September 1, 2015.