

By: Perry
(Keough)

S.B. No. 1540

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Health and Human Services Commission and the Department of Aging and Disability Services to obtain criminal history record information regarding certain applicants for employment and current employees.

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

SECTION 1. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1106 to read as follows:

Sec. 411.1106. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) In this section, "commission" means the Health and Human Services Commission.

(b) The executive commissioner of the commission, or the executive commissioner's designee, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment for a position in which the person, as an employee, would have access to sensitive personal or financial information, as determined by the executive commissioner, in:

(A) the eligibility services division of the commission; or

(B) the commission's office of inspector general; or

1 (2) an employee of the commission who has access to
2 sensitive personal or financial information, as determined by the
3 executive commissioner.

4 (c) Criminal history record information obtained by the
5 executive commissioner of the commission, or by the executive
6 commissioner's designee, under Subsection (b) may not be released
7 or disclosed, except:

8 (1) if the information is in a public record at the
9 time the information is obtained;

10 (2) on court order;

11 (3) to a criminal justice agency, upon request;

12 (4) with the consent of the person who is the subject
13 of the criminal history record information; or

14 (5) as provided by Subsection (d).

15 (d) The commission is not prohibited from disclosing
16 criminal history record information obtained under Subsection (b)
17 in a criminal proceeding or in a hearing conducted by the
18 commission.

19 (e) The executive commissioner shall destroy all criminal
20 history record information obtained under Subsection (b) as soon as
21 practicable after the information is used for its authorized
22 purpose.

23 SECTION 2. Section [411.13861](#), Government Code, is amended
24 by amending Subsection (a), as amended by S.B. 219, Acts of the 84th
25 Legislature, Regular Session, 2015, and adding Subsection (f) to
26 read as follows:

27 (a) The Department of Aging and Disability Services is

entitled to obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to a person:

(1) required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code; ~~[or]~~

(2) who seeks unsupervised visits with a ward of the department, including a relative of the ward;

(3) who is an applicant for employment with the Department of Aging and Disability Services for a position in which the person, as an employee, would have direct access to residents or clients of a facility regulated by the department, as determined by the commissioner of aging and disability services; or

(4) who is an employee of the Department of Aging and Disability Services and who has direct access to residents or clients of a facility regulated by the department, as determined by the commissioner of aging and disability services.

(f) Notwithstanding Subsection (c), the Department of Aging and Disability Services shall destroy information obtained under Subsection (a)(3) or (4) after the information is used for the purposes authorized by this section.

SECTION 3. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.00553 to read as follows:

Sec. 531.00553. CRIMINAL BACKGROUND CHECKS. (a) In this section, "eligible person" means a person whose criminal history record information the executive commissioner, or the executive commissioner's designee, is entitled to obtain from the Department of Public Safety under Section 411.1106.

1 (b) The executive commissioner may require an eligible
2 person to submit fingerprints in a form and of a quality acceptable
3 to the Department of Public Safety and the Federal Bureau of
4 Investigation for use in conducting a criminal history background
5 check by obtaining criminal history record information under
6 Sections 411.1106 and 411.087.

7 (c) Criminal history record information obtained by the
8 executive commissioner under Sections 411.1106 and 411.087 may be
9 used only to evaluate the qualification or suitability for
10 employment, including continued employment, of an eligible person.

11 (d) Notwithstanding Subsection (c), the executive
12 commissioner or the executive commissioner's designee may release
13 or disclose criminal history record information obtained under
14 Section 411.087 only to a governmental entity or as otherwise
15 authorized by federal law, including federal regulations and
16 executive orders.

17 SECTION 4. Subchapter C, Chapter 161, Human Resources Code,
18 is amended by adding Section 161.057 to read as follows:

19 Sec. 161.057. CRIMINAL BACKGROUND CHECKS. (a) In this
20 section, "eligible person" means a person whose criminal history
21 record information the department is entitled to obtain from the
22 Department of Public Safety under Section 411.13861, Government
23 Code.

24 (b) The department may obtain criminal history record
25 information regarding an eligible person as provided by Section
26 411.13861, Government Code. Criminal history record information
27 obtained under Section 411.13861 is subject to the restrictions and

1 requirements of that section.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2015.