

By: Perry

S.B. No. 1540

A BILL TO BE ENTITLED

AN ACT

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.

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) The executive commissioner of the Health and Human Services Commission or the commissioner's designee may obtain from the department criminal history record information maintained by the department 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 the following divisions or programs:

(A) the eligibility services division established under Section 531.008(c)(1);

(B) the office of inspector general established under Section 531.008(c)(2); or

(C) the medical transportation program or its successor, as described by Section 531.02414; or

(2) a person who is currently employed by the

1 commission and has access to sensitive personal or financial  
2 information, as determined by the executive commissioner.

3 (b) Criminal history record information obtained by the  
4 executive commissioner of the Health and Human Services Commission  
5 or the commissioner's designee under Subsection (a) may not be  
6 released or disclosed unless:

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

9 (2) the information is released or disclosed:

10 (A) on order of a court;

11 (B) to a criminal justice agency;

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

14 (D) in a criminal proceeding or in a hearing  
15 conducted by the commission.

16 (c) The Health and Human Services Commission shall destroy  
17 all criminal history record information obtained under Subsection  
18 (a) as soon as practicable after the information is used for its  
19 authorized purpose.

20 SECTION 2. Subchapter A, Chapter 531, Government Code, is  
21 amended by adding Section 531.0091 to read as follows:

22 Sec. 531.0091. CRIMINAL BACKGROUND CHECKS. (a) The  
23 executive commissioner is entitled to obtain from the Department of  
24 Public Safety criminal history record information maintained by the  
25 Department of Public Safety that relates to:

26 (1) an applicant for employment for a position in  
27 which the employee has access to sensitive personal or financial

1 information, as determined by the executive commissioner, in the  
2 following divisions or programs:

3 (A) the eligibility services division  
4 established under Section 531.008(c)(1);

5 (B) the office of inspector general established  
6 under Section 531.008(c)(2); or

7 (C) the medical transportation program or its  
8 successor, as described by Section 531.02414; or

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

12 (b) The executive commissioner may require a person  
13 described by Subsection (a) to submit fingerprints in a form and of  
14 a quality acceptable to the Department of Public Safety and the  
15 Federal Bureau of Investigation for use in conducting a criminal  
16 history background check.

17 (c) Information obtained by the executive commissioner  
18 under this section may be used only to evaluate the qualification or  
19 suitability for employment of persons described by Subsection (a).

20 (d) The executive commissioner shall keep confidential any  
21 information obtained under this section and may not release or  
22 disclose the information unless:

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

25 (2) the information is released or disclosed:

26 (A) on order of a court;

27 (B) with the consent of the person who is the

1 subject of the information;

2 (C) to a governmental agency entitled to receive  
3 such information; or

4 (D) in a criminal proceeding or in a hearing  
5 conducted by the commission.

6 (e) Notwithstanding Subsection (d), criminal history record  
7 information obtained from the Federal Bureau of Investigation may  
8 be released or disclosed only to a governmental entity or as  
9 authorized by federal statute, federal rule, or federal executive  
10 order.

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