

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 2, 2017**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: SB1185** by West (Relating to criminal history record information obtained or disseminated by certain private entities; providing a civil penalty.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Government Code and Business and Commerce Code to clarify that the existing law regarding private entities that compile and disseminate criminal history information applies only to those private entities that disseminate the criminal history record information of individuals and provide it without verifying the information contemporaneous with the request.

The bill would require the entity to withhold criminal history information if it receives a certified or uncertified copy of court orders of expunction or nondisclosure. The bill would authorize a private entity that purchases or obtains criminal history record information that originates from certain specified sources to disseminate the information if certain requirements are met. The bill would require a private entity must report on a quarterly basis the name and contact information to whom it has sold criminal history record information. The bill would specify that the information required in this report is not subject to the Public Information Act.

The bill would also amend the Government Code to authorize the subject of the criminal history record information to request that information from the private entity. The bill would require that upon written request from the subject of the information, the entity shall provide a copy of all records provided about that subject within 30 business days. A private entity that fails to comply with the requirements attendant to accuracy verification would be liable for any damages incurred by the subject of the criminal history record information.

The bill would require each private entity that obtains and disseminates criminal history record information to register with the Department of Public Safety (DPS). The bill would require DPS to publish a list of such private entities and their contact information on its website. The bill would establish a fine of \$500 per day for an entity who fails to comply with procedures related to disputes on information accuracy, and fails to disclose the entity's name and contact information to DPS. Such an entity would be liable to the state for a civil penalty of \$500 for each violation as well as reasonable expenses incurred in obtaining the penalty. Collections from penalties would be deposited in the state treasury to the credit of DPS. The bill would authorize the Attorney General, at the request of DPS, to bring an action to recover the penalty, and recover reasonable expenses in bringing an action. The Comptroller has indicated any collections from the new civil penalty cannot be determined.

The bill would require a private entity to provide to purchasers of the criminal history record

information, the source of the information and the date when the information was last updated. The bill would require a purchaser of the criminal history record information who uses it for employment, housing or licensing and who makes an adverse decision based on the information to inform the subject of the adverse decision, and provide the name and contact information of the entity from whom the criminal history record information was purchased.

The bill would amend the Business and Commerce Code by providing an exemption from the requirements of the bill for a consumer reporting agency which provides a consumer report to a federal entity requesting the information for employment purposes. The bill would also require a consumer reporting agency that provides information for employment or housing purposes to ensure that the report is accurate and up to date.

The bill would take effect September 1, 2017.

### **Local Government Impact**

According to Dallas County, no fiscal impact to the County is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts,  
405 Department of Public Safety

**LBB Staff:** UP, KJo, AI, JAW, JSm, JGA