

By: Turner of Dallas

H.B. No. 3699

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the ability of health and human services agencies to
3 continue to be able to obtain criminal history record information.

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

5 SECTION 1. Section [411.110](#), Government Code, is amended to
6 read as follows:

7 Sec. 411.110. ACCESS TO CRIMINAL HISTORY RECORD
8 INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND
9 HUMAN SERVICES COMMISSION. (a) The Department of State Health
10 Services or the Health and Human Services Commission, as
11 applicable, is entitled to obtain from the department criminal
12 history record information maintained by the department that
13 relates to:

14 (1) a person who is:

15 (A) an applicant for a license or certificate
16 under the Emergency Health Care Act (Chapter [773](#), Health and Safety
17 Code);

18 (B) an owner or manager of an applicant for an
19 emergency medical services provider license under that Act; or

20 (C) the holder of a license or certificate under
21 that Act;

22 (2) an applicant for a license or a license holder
23 under Subchapter N, Chapter [431](#), Health and Safety Code;

24 (3) an applicant for a license, the owner or manager of

1 an applicant for a massage establishment license, or a license
2 holder under Chapter 455, Occupations Code;

3 (4) an applicant for employment at or current employee
4 of:

5 (A) a public health hospital as defined by
6 Section 13.033, Health and Safety Code; or

7 (B) the South Texas Health Care System;

8 (5) an applicant for employment at, current employee
9 of, or person who contracts or may contract to provide goods or
10 services with the Council on Sex Offender Treatment or other
11 division or component of the Department of State Health Services
12 that monitors sexually violent predators as described by Section
13 841.003(a), Health and Safety Code; or

14 (6) a person authorized to access vital records or the
15 vital records electronic registration system under Chapter 191,
16 Health and Safety Code, including an employee of or contractor for
17 the Department of State Health Services, a local registrar, a
18 medical professional, or a funeral director.

19 (b) Criminal history record information obtained by the
20 Department of State Health Services or the Health and Human
21 Services Commission, as applicable, under Subsection (a) may not be
22 released or disclosed to any person except on court order, with the
23 written consent of the person or entity that is the subject of the
24 criminal history record information, or as provided by Subsection
25 (e).

26 (c) After an entity is licensed or certified, the Department
27 of State Health Services or the Health and Human Services

1 Commission, as applicable, shall destroy the criminal history
2 record information that relates to that entity. The Department of
3 State Health Services or the Health and Human Services Commission,
4 as applicable, shall destroy the criminal history record
5 information that relates to:

6 (1) an applicant for employment after that applicant
7 is employed or, for an applicant who is not employed, after the
8 check of the criminal history record information on that applicant
9 is completed; or

10 (2) an employee or contractor after the check of the
11 criminal history record information on that employee or contractor
12 is completed.

13 (d) The Department of State Health Services or the Health
14 and Human Services Commission, as applicable, shall destroy
15 criminal history record information that relates to an applicant
16 who is not certified or employed, as applicable.

17 (e) The Department of State Health Services or the Health
18 and Human Services Commission, as applicable, is not prohibited
19 from disclosing criminal history record information obtained under
20 Subsection (a) in a criminal proceeding or in a hearing conducted by
21 the Department of State Health Services or the Health and Human
22 Services Commission, as applicable.

23 (f) The Department of State Health Services or the Health
24 and Human Services Commission, as applicable, may not consider
25 offenses for which points are assessed under Section 708.052,
26 Transportation Code, to determine whether to hire or retain an
27 employee or to contract with a person on whom criminal history

1 record information is obtained under this section.

2 SECTION 2. Section 411.1103, Government Code, is amended to
3 read as follows:

4 Sec. 411.1103. ACCESS TO CRIMINAL HISTORY RECORD
5 INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND
6 HUMAN SERVICES COMMISSION. (a) The Department of State Health
7 Services or the Health and Human Services Commission, as
8 applicable, is entitled to obtain from the department criminal
9 history record information maintained by the department that
10 relates to a person:

11 (1) who is:

12 (A) an applicant for employment at a state
13 hospital;

14 (B) an employee of a state hospital;

15 (C) a person who contracts or may contract to
16 provide goods or services to the Department of State Health
17 Services or the Health and Human Services Commission, as
18 applicable, at a state hospital or an employee of or applicant for
19 employment with that person;

20 (D) a volunteer with a state hospital; or

21 (E) an applicant for a volunteer position with a
22 state hospital; and

23 (2) who would be placed in direct contact with a
24 patient at a state hospital.

25 (b) Criminal history record information obtained by the
26 Department of State Health Services or the Health and Human
27 Services Commission, as applicable, under this section may not be

1 released or disclosed to any person except:

2 (1) on court order;

3 (2) with the consent of the person who is the subject
4 of the criminal history record information;

5 (3) for purposes of an administrative hearing held by
6 the Department of State Health Services or the Health and Human
7 Services Commission, as applicable, concerning the person who is
8 the subject of the criminal history record information; or

9 (4) as provided by Subsection (c).

10 (c) The Department of State Health Services or the Health
11 and Human Services Commission, as applicable, is not prohibited
12 from releasing criminal history record information obtained under
13 this section to the person who is the subject of the criminal
14 history record information.

15 (d) Subject to Section [411.087](#), the Department of State
16 Health Services or the Health and Human Services Commission, as
17 applicable, is entitled to:

18 (1) obtain through the Federal Bureau of Investigation
19 criminal history record information maintained or indexed by that
20 bureau that pertains to a person described by Subsection (a); and

21 (2) obtain from any other criminal justice agency in
22 this state criminal history record information maintained by that
23 criminal justice agency that relates to a person described by
24 Subsection (a).

25 (e) This section does not prohibit the Department of State
26 Health Services or the Health and Human Services Commission, as
27 applicable, from obtaining and using criminal history record

1 information as provided by other law.

2 SECTION 3. Section 411.1105, Government Code, is amended to
3 read as follows:

4 Sec. 411.1105. ACCESS TO CRIMINAL HISTORY RECORD
5 INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND
6 HUMAN SERVICES COMMISSION. (a) The Department of State Health
7 Services or the Health and Human Services Commission, as
8 applicable, is entitled to obtain from the department criminal
9 history record information maintained by the department that
10 relates to a person who is:

11 (1) an applicant for a chemical dependency counselor's
12 license, a counselor intern's registration, or a clinical
13 supervisor certification under Chapter 504, Occupations Code; or

14 (2) the holder of a license, registration, or
15 certification under that chapter.

16 (b) In addition to information obtained from the Federal
17 Bureau of Investigation under Section 411.087, the Department of
18 State Health Services or the Health and Human Services Commission,
19 as applicable, is entitled to obtain information relating to the
20 wanted persons status of an individual listed in Subsection (a).

21 (c) Criminal history record information obtained by the
22 Department of State Health Services or the Health and Human
23 Services Commission, as applicable, under Subsection (a) may not be
24 released or disclosed to any person except on court order, with the
25 consent of the person who is the subject of the criminal history
26 record information, or as provided by Subsection (d).

27 (d) The Department of State Health Services or the Health

1 and Human Services Commission, as applicable, may provide the
2 applicant or licensee with a copy of the person's criminal history
3 record information obtained from the Department of Public Safety,
4 Federal Bureau of Investigation identification division, or
5 another law enforcement agency.

6 SECTION 4. Section 411.1106, Government Code, is amended to
7 read as follows:

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

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

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

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

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

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

27 (b-1) The executive commissioner of the commission, or the

1 executive commissioner's designee, is entitled to obtain from the
2 department criminal history record information maintained by the
3 department with respect to a function transferred to the commission
4 under Subchapter A-1, Chapter 531.

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

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

11 (2) on court order;

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

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

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

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

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

24 SECTION 5. Section 411.1131, Government Code, is amended to
25 read as follows:

26 Sec. 411.1131. ACCESS TO CRIMINAL HISTORY RECORD
27 INFORMATION: DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

1 AND HEALTH AND HUMAN SERVICES COMMISSION. (a) The Department of
2 Assistive and Rehabilitative Services or the Health and Human
3 Services Commission, as applicable, is entitled to obtain from the
4 department criminal history record information maintained by the
5 department that relates to a person who is an applicant for a staff
6 position at an outdoor training program for children who are deaf or
7 hard of hearing conducted by a private entity through a contract
8 with the Department of Assistive and Rehabilitative Services or the
9 Health and Human Services Commission, as applicable, in accordance
10 with Section 81.013, Human Resources Code.

11 (b) Criminal history record information obtained by the
12 Department of Assistive and Rehabilitative Services or the Health
13 and Human Services Commission, as applicable, under Subsection (a)
14 may be used only to evaluate an applicant for a staff position at an
15 outdoor training program for children who are deaf or hard of
16 hearing. The Department of Assistive and Rehabilitative Services
17 or the Health and Human Services Commission, as applicable, may
18 release or disclose the information to a private entity described
19 by Subsection (a) for that purpose.

20 (c) The Department of Assistive and Rehabilitative Services
21 or the Health and Human Services Commission, as applicable, may not
22 release or disclose information obtained under Subsection (a),
23 except on court order or with the consent of the person who is the
24 subject of the criminal history record information, and shall
25 destroy all criminal history record information obtained under
26 Subsection (a) after the information is used for its authorized
27 purpose.

1 SECTION 6. Section [411.114](#), Government Code, is amended to
2 read as follows:

3 Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD
4 INFORMATION: DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES AND
5 HEALTH AND HUMAN SERVICES COMMISSION. (a)(1) In this subsection:

6 (A) "Child," "child-care facility," "child-
7 placing agency," "facility," and "family home" have the meanings
8 assigned by Section [42.002](#), Human Resources Code.

9 (A-1) "Department of Family and Protective
10 Services" includes:

11 (i) the Department of Family and Protective
12 Services as authorized by Section [40.002](#), Human Resources Code;

13 (ii) the Health and Human Services
14 Commission with respect to a function transferred to the commission
15 under Subchapter A-1, Chapter [531](#); and

16 (iii) any person or entity acting as an
17 authorized agent of the Department of Family and Protective
18 Services.

19 (B) "Elderly person" has the meaning assigned by
20 Section [48.002](#), Human Resources Code.

21 (C) Deleted by Acts 2011, 82nd Leg., R.S., Ch.
22 1082 (S.B. [1178](#)), Sec. 13, eff. September 1, 2012.

23 (D) "Person with a disability" means a disabled
24 person as defined by Section [48.002](#), Human Resources Code.

25 (E) Repealed by Acts 2017, 85th Leg., R.S., Ch.
26 1108 (H.B. [4094](#)), Sec. 5, eff. September 1, 2017.

27 (2) The Department of Family and Protective Services

1 or the Health and Human Services Commission, as applicable, shall
2 obtain from the department criminal history record information
3 maintained by the department that relates to a person who is:

4 (A) an applicant for a license, registration,
5 certification, or listing under Chapter 42, Human Resources Code;

6 (B) an owner, operator, or employee of or an
7 applicant for employment by a child-care facility, child-placing
8 agency, or family home licensed, registered, certified, or listed
9 under Chapter 42, Human Resources Code;

10 (C) a person 14 years of age or older who will be
11 regularly or frequently working or staying in a facility or family
12 home, other than a child in the care of the home or facility;

13 (D) except as provided by Subsection (d), an
14 applicant selected for a position with the Department of Family and
15 Protective Services or the Health and Human Services Commission, as
16 applicable, the duties of which include direct delivery of
17 protective services to children, elderly persons, or persons with a
18 disability;

19 (E) an employee of, an applicant for employment
20 with, or a volunteer or an applicant volunteer with a business
21 entity or person that contracts with the Department of Family and
22 Protective Services or the Health and Human Services Commission, as
23 applicable, to provide direct delivery of protective services to
24 children, elderly persons, or persons with a disability, if the
25 person's duties or responsibilities include direct contact with
26 children, elderly persons, or persons with a disability;

27 (F) a registered volunteer with the Department of

1 Family and Protective Services or the Health and Human Services
2 Commission, as applicable;

3 (G) a person providing or applying to provide
4 in-home, adoptive, or foster care for children in the care of the
5 Department of Family and Protective Services or the Health and
6 Human Services Commission, as applicable, and other persons living
7 in the residence in which the child will reside;

8 (H) a Department of Family and Protective
9 Services or the Health and Human Services Commission, as
10 applicable, employee who is engaged in the direct delivery of
11 protective services to children, elderly persons, or persons with a
12 disability;

13 (I) an alleged perpetrator in a report the
14 Department of Family and Protective Services or the Health and
15 Human Services Commission, as applicable, receives alleging that
16 the person has abused, neglected, or exploited a child, an elderly
17 person, or a person with a disability, provided that:

18 (i) the report alleges the person has
19 engaged in conduct that meets the applicable definition of abuse,
20 neglect, or exploitation under Chapter 261, Family Code, or Chapter
21 48, Human Resources Code; and

22 (ii) the person is not also the victim of
23 the alleged conduct;

24 (J) a person providing child care for a child who
25 is in the care of the Department of Family and Protective Services
26 or the Health and Human Services Commission, as applicable, and who
27 is or will be receiving adoptive, foster, or in-home care;

1 (K) through a contract with a nonprofit
2 management center, an employee of, an applicant for employment
3 with, or a volunteer or an applicant volunteer with a nonprofit,
4 tax-exempt organization that provides any service that involves the
5 care of or access to a child, an elderly person, or a person with a
6 disability; or

7 (L) an applicant for a child-care administrator
8 or child-placing agency administrator license under Chapter 43,
9 Human Resources Code.

10 (3) In addition to the criminal history record
11 information the Department of Family and Protective Services or the
12 Health and Human Services Commission, as applicable, is required to
13 obtain under Subdivision (2), the Department of Family and
14 Protective Services or the Health and Human Services Commission, as
15 applicable, is entitled to obtain from the department criminal
16 history record information maintained by the department that
17 relates to a person who is:

18 (A) an applicant for a position with the
19 Department of Family and Protective Services or the Health and
20 Human Services Commission, as applicable, regardless of the duties
21 of the position, including a position described by Subdivision
22 (2)(D);

23 (B) a Department of Family and Protective
24 Services or the Health and Human Services Commission, as
25 applicable, employee regardless of the duties of the employee's
26 position, including an employee described by Subdivision (2)(H);

27 (C) a volunteer or applicant volunteer with the

1 Department of Family and Protective Services or the Health and
2 Human Services Commission, as applicable, regardless of the duties
3 to be performed, including a registered volunteer;

4 (D) an employee of, an applicant for employment
5 with, or a volunteer or an applicant volunteer with an entity or
6 person that contracts with the Department of Family and Protective
7 Services or the Health and Human Services Commission, as
8 applicable, and has access to confidential information in the
9 department's or the Health and Human Services Commission's records,
10 if the employee, applicant, volunteer, or applicant volunteer has
11 or will have access to that confidential information;

12 (E) a person living in the residence in which the
13 alleged victim of the report resides, including an alleged
14 perpetrator in a report described by Subdivision (2)(I);

15 (F) a person providing, at the request of the
16 child's parent, in-home care for a child who is the subject of a
17 report alleging the child has been abused or neglected;

18 (G) a person providing, at the request of the
19 child's parent, in-home care for a child only if the person gives
20 written consent to the release and disclosure of the information;

21 (H) a child who is related to the caretaker, as
22 determined under Section 42.002, Human Resources Code, or any other
23 person who resides in, is present in, or has unsupervised access to
24 a child in the care of a facility or family home;

25 (I) a relative of a child in the care of the
26 Department of Family and Protective Services or the Health and
27 Human Services Commission, as applicable, to the extent necessary

1 to comply with Section 162.007, Family Code;

2 (J) a person providing or applying to provide
3 in-home, adoptive, or foster care for children to the extent
4 necessary to comply with Subchapter B, Chapter 162, Family Code;

5 (K) a person who volunteers to supervise
6 visitation under Subchapter B, Chapter 263, Family Code;

7 (L) an employee of or volunteer at, or an
8 applicant for employment with or to be a volunteer at, an entity
9 that provides supervised independent living services to a young
10 adult receiving extended foster care services from the Department
11 of Family and Protective Services or the Health and Human Services
12 Commission, as applicable;

13 (M) a person 14 years of age or older who will be
14 regularly or frequently working or staying in a host home that is
15 providing supervised independent living services to a young adult
16 receiving extended foster care services from the Department of
17 Family and Protective Services or the Health and Human Services
18 Commission, as applicable;

19 (N) a volunteer or applicant volunteer with a
20 local affiliate in this state of Big Brothers Big Sisters of
21 America;

22 (O) a volunteer or applicant volunteer with an
23 organization that provides court-appointed volunteer advocates for
24 abused or neglected children; or

25 (P) an employee, volunteer, or applicant
26 volunteer of a children's advocacy center under Subchapter E,
27 Chapter 264, Family Code, including a member of the governing board

1 of a center.

2 (4) Subject to Section 411.087, the Department of
3 Family and Protective Services or the Health and Human Services
4 Commission, as applicable, is entitled to:

5 (A) obtain through the Federal Bureau of
6 Investigation criminal history record information maintained or
7 indexed by that bureau that pertains to a person described by
8 Subdivision (2) or (3); and

9 (B) obtain from any other criminal justice agency
10 in this state criminal history record information maintained by
11 that criminal justice agency that relates to a person described by
12 Subdivision (2) or (3). Law enforcement entities shall expedite
13 the furnishing of such information to Department of Family and
14 Protective Services or the Health and Human Services Commission, as
15 applicable, workers to ensure prompt criminal background checks for
16 the safety of alleged victims and Department of Family and
17 Protective Services or the Health and Human Services Commission, as
18 applicable, workers.

19 (5) The Department of Family and Protective Services
20 or the Health and Human Services Commission, as applicable, may not
21 use the authority granted under this section to harass an employee
22 or volunteer. The commissioner of the Department of Family and
23 Protective Services or the executive commissioner of the Health and
24 Human Services Commission, as applicable, shall adopt rules to
25 prevent the harassment of an employee or volunteer through the
26 request and use of criminal records.

27 (6) Criminal history record information obtained by

1 the Department of Family and Protective Services or the Health and
2 Human Services Commission, as applicable, under this subsection may
3 not be released to any person except:

4 (A) on court order;

5 (B) with the consent of the person who is the
6 subject of the criminal history record information;

7 (C) for purposes of an administrative hearing
8 held by the Department of Family and Protective Services or the
9 Health and Human Services Commission, as applicable, concerning the
10 person who is the subject of the criminal history record
11 information; or

12 (D) as provided by Subdivision (7).

13 (7) The Department of Family and Protective Services
14 or the Health and Human Services Commission, as applicable, is not
15 prohibited from releasing criminal history record information
16 obtained under this subsection to:

17 (A) the person who is the subject of the criminal
18 history record information;

19 (B) a child-placing agency listed in Subdivision
20 (2) that is seeking to verify or approve a foster or adoptive home
21 under procedures authorized by Section 471(a)(20)(A), Social
22 Security Act (42 U.S.C. Section 671(a)(20)(A));

23 (C) an adult who resides with an alleged victim
24 of abuse, neglect, or exploitation of a child, elderly person, or
25 person with a disability and who also resides with the alleged
26 perpetrator of that abuse, neglect, or exploitation if:

27 (i) the alleged perpetrator is the subject

1 of the criminal history record information; and

2 (ii) the Department of Family and
3 Protective Services or the Health and Human Services Commission, as
4 applicable, determines that the release of information to the adult
5 is necessary to ensure the safety or welfare of the alleged victim
6 or the adult; or

7 (D) an elderly or disabled person who is an
8 alleged victim of abuse, neglect, or exploitation and who resides
9 with the alleged perpetrator of that abuse, neglect, or
10 exploitation if:

11 (i) the alleged perpetrator is the subject
12 of the criminal history record information; and

13 (ii) the Department of Family and
14 Protective Services or the Health and Human Services Commission, as
15 applicable, determines that the release of information to the
16 elderly or disabled person or adult is necessary to ensure the
17 safety or welfare of the elderly or disabled person.

18 (b) The failure or refusal to provide a complete set of
19 fingerprints or a complete name on request constitutes good cause
20 for dismissal or refusal to hire, as applicable, with regard to a
21 volunteer of or an employee or applicant for permanent or temporary
22 employment with the Department of Family and Protective Services or
23 the Health and Human Services Commission, as applicable, or a
24 facility, home, business, or other entity, if the volunteer
25 position, employment, or potential employment involves direct
26 interaction with or the opportunity to interact and associate with
27 children.

1 (c) The Department of Family and Protective Services or the
2 Health and Human Services Commission, as applicable, may charge an
3 organization or person that requests criminal history record
4 information under Subsection (a)(3) a fee in an amount necessary to
5 cover the costs of obtaining the information on the organization's
6 or person's behalf.

7 (d) With respect to an applicant who is selected for
8 employment for a function or in a division of the Department of
9 Family and Protective Services that is transferred to the Health
10 and Human Services Commission under Subchapter A-1, Chapter 531,
11 the commission may obtain from the department criminal history
12 record information maintained by the department that relates to the
13 applicant.

14 SECTION 7. Sec. 411.1142. ACCESS TO CRIMINAL HISTORY
15 RECORD: INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION AND
16 HUMAN SERVICES COMMISSION. (a) The Interagency Council on Early
17 Childhood Intervention or the Health and Human Services Commission,
18 as applicable, is entitled to obtain criminal history record
19 information maintained by the Department of Public Safety, the
20 Federal Bureau of Investigation identification division, or
21 another law enforcement agency that relates to an employee or an
22 applicant for permanent, temporary, or consultative employment or
23 for volunteer positions whose employment or potential employment or
24 volunteer position with the council or a local provider involves
25 the delivery of early childhood intervention services or involves
26 direct interactions with or the opportunity to interact and
27 associate with children.

1 (b) Criminal history record information obtained by the
2 council or the Health and Human Services Commission, as applicable,
3 under Subsection (a) may not be released or disclosed to any person
4 except on court order, with the consent of the person who is the
5 subject of the criminal history record information, or as provided
6 by Subsection (d).

7 (c) The council or the Health and Human Services Commission,
8 as applicable, shall destroy criminal history record information
9 that relates to a person after the information is used for its
10 authorized purpose.

11 (d) The council or the Health and Human Services Commission,
12 as applicable, may provide the applicant, employee, professional
13 consultant, or volunteer with a copy of the person's criminal
14 history record information obtained from the Department of Public
15 Safety, Federal Bureau of Investigation identification division,
16 or another law enforcement agency.

17 (e) The failure or refusal to provide a complete set of
18 fingerprints or a complete name on request constitutes good cause
19 for dismissal or refusal to hire, as applicable, with regard to
20 council employees, professional consultants, and applicants for
21 permanent, temporary, or consultative employment or for volunteer
22 positions whose employment or potential employment or volunteer
23 position with the council or a local provider involves the delivery
24 of early childhood intervention services or involves direct
25 interactions with or the opportunity to interact and associate with
26 children.

27 SECTION 8. Section [411.1144](#), Government Code, is amended to

1 read as follows:

2 Sec. 411.1144. ACCESS TO CRIMINAL HISTORY RECORD
3 INFORMATION: AGENCIES WITH EMPLOYEES, CONTRACTORS, OR VOLUNTEERS
4 AT STATE SUPPORTED LIVING CENTERS. (a) The Department of State
5 Health Services [~~the Department of Aging and Disability Services,~~]
6 and the Health and Human Services Commission are entitled to obtain
7 from the department criminal history record information maintained
8 by the department that relates to a person:

9 (1) who is:

- 10 (A) an applicant for employment with the agency;
11 (B) an employee of the agency;
12 (C) a volunteer with the agency;
13 (D) an applicant for a volunteer position with
14 the agency;
15 (E) an applicant for a contract with the agency;
16 or
17 (F) a contractor of the agency; and

18 (2) who would be placed in direct contact with a
19 resident or client, as defined by Section 555.001, Health and
20 Safety Code.

21 (b) Criminal history record information obtained by an
22 agency under Subsection (a) may not be released or disclosed to any
23 person except:

- 24 (1) on court order;
25 (2) with the consent of the person who is the subject
26 of the criminal history record information;
27 (3) for purposes of an administrative hearing held by

1 the agency concerning the person who is the subject of the criminal
2 history record information; or

3 (4) as provided by Subsection (c).

4 (c) An agency is not prohibited from releasing criminal
5 history record information obtained under Subsection (a) or (d) to
6 the person who is the subject of the criminal history record
7 information.

8 (d) Subject to Section 411.087, the Department of State
9 Health Services [~~the Department of Aging and Disability Services,~~]
10 and the Health and Human Services Commission are entitled to:

11 (1) obtain through the Federal Bureau of Investigation
12 criminal history record information maintained or indexed by that
13 bureau that pertains to a person described by Subsection (a); and

14 (2) obtain from any other criminal justice agency in
15 this state criminal history record information maintained by that
16 criminal justice agency that relates to a person described by
17 Subsection (a).

18 (e) This section does not prohibit an agency from obtaining
19 and using criminal history record information as provided by other
20 law.

21 SECTION 9. Section 411.115, Government Code, is amended to
22 read as follows:

23 Sec. 411.115. ACCESS TO CRIMINAL HISTORY RECORD
24 INFORMATION: TEXAS DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH
25 AND HUMAN SERVICES COMMISSION [~~MENTAL HEALTH AND MENTAL~~
26 ~~RETARDATION~~]; LOCAL AUTHORITIES; COMMUNITY CENTERS. (a) In this
27 section, "local mental health authority," "local mental

1 retardation authority," and "community center" have the meanings
2 assigned by Section 531.002, Health and Safety Code.

3 (b) The Texas Department of State Health Services or the
4 Health and Human Services Commission, as applicable [~~Mental Health~~
5 ~~and Mental Retardation~~], a local mental health or mental
6 retardation authority, or a community center is entitled to obtain
7 from the department criminal history record information maintained
8 by the department that relates to a person:

9 (1) who is:

10 (A) an applicant for employment with the Texas
11 Department of State Health Services or the Health and Human
12 Services Commission, as applicable [~~Mental Health and Mental~~
13 ~~Retardation~~], a local mental health or mental retardation
14 authority, or a community center;

15 (B) an employee of the Texas Department of State
16 Health Services or the Health and Human Services Commission, as
17 applicable [~~Mental Health and Mental Retardation~~], a local mental
18 health or mental retardation authority, or a community center;

19 (C) an applicant for employment with or an
20 employee of a business or person that contracts with the Texas
21 Department of State Health Services or the Health and Human
22 Services Commission, as applicable [~~Mental Health and Mental~~
23 ~~Retardation~~], a local mental health or mental retardation
24 authority, or a community center to provide residential services to
25 patients with mental illness or clients with mental retardation who
26 were furloughed or discharged from a Texas Department of State
27 Health Services or the Health and Human Services Commission, as

1 applicable, [~~Mental Health and Mental Retardation~~] facility or
2 community center;

3 (D) a volunteer with the Texas Department of
4 State Health Services or the Health and Human Services Commission,
5 as applicable [~~Mental Health and Mental Retardation~~], a local
6 mental health or mental retardation authority, or a community
7 center; or

8 (E) a volunteer applicant; and

9 (2) who would be placed in direct contact with
10 patients with mental illness or clients with mental retardation.

11 (c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(2).

12 (d) Criminal history record information obtained by the
13 Texas Department of State Health Services or the Health and Human
14 Services Commission, as applicable [~~Mental Health and Mental~~
15 ~~Retardation~~] [~~mental health department~~], a local mental health or
16 mental retardation authority, or a community center under
17 Subsection (b) may not be released or disclosed to a person, other
18 than the contractor that employs the person who is the subject of
19 the criminal history record information, except on court order or
20 with the consent of the person who is the subject of the criminal
21 history record information.

22 (e) The Texas Department of State Health Services or the
23 Health and Human Services Commission, as applicable [~~Mental Health~~
24 ~~and Mental Retardation~~], a local mental health or mental
25 retardation authority, or a community center shall collect and
26 destroy criminal history record information that relates to a
27 person immediately after making an employment decision or taking a

1 personnel action relating to the person who is the subject of the
2 criminal history record information.

3 SECTION 10. Section 411.117, Government Code, is amended to
4 read as follows:

5 Sec. 411.117. ACCESS TO CRIMINAL HISTORY RECORD
6 INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND TEXAS
7 WORKFORCE COMMISSION [~~DEPARTMENT OF ASSISTIVE AND REHABILITATIVE~~
8 ~~SERVICES~~]. The Health and Human Services Commission or the Texas
9 Workforce Commission, as applicable, [~~Department of Assistive and~~
10 ~~Rehabilitative Services~~] is entitled to obtain from the department
11 criminal history record information maintained by the department
12 that relates to a person who is:

13 (1) an applicant for services of the Health and Human
14 Services Commission or the Texas Workforce Commission, as
15 applicable, [~~Department of Assistive and Rehabilitative Services~~];

16 (2) a client of the Health and Human Services
17 Commission or the Texas Workforce Commission, as applicable,
18 [~~Department of Assistive and Rehabilitative Services~~]; or

19 (3) an applicant for employment whose potential duties
20 include direct contact with clients of the Health and Human
21 Services Commission or the Texas Workforce Commission, as
22 applicable, [~~Department of Assistive and Rehabilitative Services~~].

23 SECTION 11. Section 411.122, Government Code, is amended to
24 read as follows:

25 Sec. 411.122. ACCESS TO CRIMINAL HISTORY RECORD
26 INFORMATION: LICENSING OR REGULATORY AGENCY. (a) Except as
27 provided by Subsection (c)(2), an agency of this state listed in

1 Subsection (d) or a political subdivision of this state covered by
2 Chapter 53, Occupations Code, that licenses or regulates members of
3 a particular trade, occupation, business, vocation, or profession
4 is entitled to obtain from the department criminal history record
5 information maintained by the department that relates to a person
6 who:

7 (1) is an applicant for a license from the agency;

8 (2) is the holder of a license from the agency; or

9 (3) requests a determination of eligibility for a
10 license from the agency.

11 (b) A municipality or county that requires a sexually
12 oriented business to obtain a license or other permit under Section
13 243.007, Local Government Code, is entitled to obtain from the
14 department criminal history record information maintained by the
15 department that relates to a person who:

16 (1) is an applicant for a license or other permit for a
17 sexually oriented business issued by the municipality or county;

18 (2) is the holder of a license or other permit for a
19 sexually oriented business issued by the municipality or county; or

20 (3) requests a determination of eligibility for a
21 license or other permit for a sexually oriented business issued by
22 the municipality or county.

23 (c) This section does not apply to an agency that is:

24 (1) specifically authorized by this subchapter or
25 Subchapter E-1 to obtain criminal history record information from
26 the department; or

27 (2) covered by Section 53.002, Occupations Code, to

1 the extent provided by that section.

2 (d) The following state agencies are subject to this
3 section:

4 (1) Texas Appraiser Licensing and Certification
5 Board;

6 (2) Texas Board of Architectural Examiners;

7 (3) Texas Board of Chiropractic Examiners;

8 (4) State Board of Dental Examiners;

9 (5) Texas Board of Professional Engineers;

10 (6) Texas Funeral Service Commission;

11 (7) Texas Board of Professional Geoscientists;

12 (8) Department of State Health Services or the Health

13 and Human Services Commission, as applicable, except as provided by

14 Section [411.110](#), and agencies attached to the department,

15 including:

16 (A) Texas State Board of Examiners of Marriage
17 and Family Therapists;

18 (B) Texas State Board of Examiners of
19 Professional Counselors; and

20 (C) Texas State Board of Social Worker Examiners;

21 (9) Texas Board of Professional Land Surveying;

22 (10) Texas Department of Licensing and Regulation,

23 except as provided by Section [411.093](#);

24 (11) Texas Commission on Environmental Quality;

25 (12) Texas Board of Occupational Therapy Examiners;

26 (13) Texas Optometry Board;

27 (14) Texas State Board of Pharmacy;

- 1 (15) Texas Board of Physical Therapy Examiners;
- 2 (16) Texas State Board of Plumbing Examiners;
- 3 (17) Texas State Board of Podiatric Medical Examiners;
- 4 (18) Texas State Board of Examiners of Psychologists;
- 5 (19) Texas Real Estate Commission;
- 6 (20) Texas Department of Transportation;
- 7 (21) State Board of Veterinary Medical Examiners;
- 8 (22) Texas Department of Housing and Community
9 Affairs;
- 10 (23) secretary of state;
- 11 (24) state fire marshal;
- 12 (25) Texas Education Agency;
- 13 (26) Department of Agriculture; and
- 14 (27) Texas Department of Motor Vehicles.

15 SECTION 12. Section 411.1386, Government Code, is amended
16 to read as follows:

17 Sec. 411.1386. ACCESS TO CRIMINAL HISTORY RECORD
18 INFORMATION: COURT CLERK; HEALTH AND HUMAN SERVICES COMMISSION
19 [~~DEPARTMENT OF AGING AND DISABILITY SERVICES~~]; GUARDIANSHIPS.

20 (a) Except as provided by Subsections (a-1), (a-5), and
21 (a-6), the clerk of the county having venue over a proceeding for
22 the appointment of a guardian under Title 3, Estates Code, shall
23 obtain from the department criminal history record information
24 maintained by the department that relates to:

- 25 (1) a private professional guardian;
- 26 (2) each person who represents or plans to represent
27 the interests of a ward as a guardian on behalf of the private

1 professional guardian;

2 (3) each person employed by a private professional
3 guardian who will:

4 (A) have personal contact with a ward or proposed
5 ward;

6 (B) exercise control over and manage a ward's
7 estate; or

8 (C) perform any duties with respect to the
9 management of a ward's estate;

10 (4) each person employed by or volunteering or
11 contracting with a guardianship program to provide guardianship
12 services to a ward of the program on the program's behalf; or

13 (5) any other person proposed to serve as a guardian
14 under Title 3, Estates Code, including a proposed temporary
15 guardian and a proposed successor guardian, other than an attorney.

16 (a-1) The Health and Human Services Commission [~~Department~~
17 ~~of Aging and Disability Services~~] shall obtain from the Department
18 of Public Safety criminal history record information maintained by
19 the Department of Public Safety that relates to each individual who
20 is or will be providing guardianship services to a ward of or
21 referred by the Health and Human Services Commission [~~Department of~~
22 ~~Aging and Disability Services~~], including:

23 (1) an employee of or an applicant selected for an
24 employment position with the Health and Human Services Commission
25 [~~Department of Aging and Disability Services~~];

26 (2) a volunteer or an applicant selected to volunteer
27 with the Health and Human Services Commission [~~Department of Aging~~

1 ~~and Disability Services];~~

2 (3) an employee of or an applicant selected for an
3 employment position with a business entity or other person that
4 contracts with the Health and Human Services Commission [~~Department~~
5 ~~of Aging and Disability Services~~] to provide guardianship services
6 to a ward referred by the department;

7 (4) a volunteer or an applicant selected to volunteer
8 with a business entity or person described by Subdivision (3); and

9 (5) a contractor or an employee of a contractor who
10 provides services to a ward of the Health and Human Services
11 Commission [~~Department of Aging and Disability Services~~] under a
12 contract with the estate of the ward.

13 (a-2) The information in Subsection (a-1) regarding
14 applicants for employment positions must be obtained before an
15 offer of employment, and the information regarding applicant
16 volunteers must be obtained before the person's contact with a ward
17 of or referred by the Health and Human Services Commission
18 [~~Department of Aging and Disability Services~~].

19 (a-3) The information in Subsection (a-1) regarding
20 employees, contractors, or volunteers providing guardianship
21 services must be obtained annually.

22 (a-4) The Health and Human Services Commission [~~Department~~
23 ~~of Aging and Disability Services~~] shall provide the information
24 obtained under Subsection (a-1) to:

25 (1) the clerk of the county having venue over the
26 guardianship proceeding at the request of the court; and

27 (2) the guardianship certification program of the

1 Judicial Branch Certification Commission at the request of the
2 commission.

3 (a-5) Not later than the 10th day before the date of the
4 hearing to appoint a guardian, a person may submit to the clerk a
5 copy of the person's criminal history record information required
6 under Subsection (a)(5) that the person obtains from the department
7 not earlier than the 30th day before the date of the hearing.

8 (a-6) The clerk described by Subsection (a) is not required
9 to obtain criminal history record information for a person if the
10 Judicial Branch Certification Commission conducted a criminal
11 history check on the person under Chapter 155. The commission shall
12 provide to the clerk at the court's request the criminal history
13 record information that was obtained from the department or the
14 Federal Bureau of Investigation.

15 (b) Criminal history record information obtained by or
16 provided to a clerk under Subsection (a), (a-5), or (a-6) is for the
17 exclusive use of the court and is privileged and confidential.

18 (c) Criminal history record information obtained by or
19 provided to a clerk under Subsection (a), (a-5), or (a-6) may not be
20 released or disclosed to any person or agency except on court order
21 or with the consent of the person who is the subject of the
22 information. The clerk may destroy the criminal history record
23 information after the information is used for the purposes
24 authorized by this section.

25 (d) The criminal history record information obtained under
26 Subsection (a-4) is for the exclusive use of the court or
27 guardianship certification program of the Judicial Branch

1 Certification Commission, as appropriate, and is privileged and
2 confidential. The information may not be released or otherwise
3 disclosed to any person or agency except on court order, with the
4 consent of the person being investigated, or as authorized by
5 Subsection (a-6) or Section 1104.404, Estates Code. The county
6 clerk or guardianship certification program of the Judicial Branch
7 Certification Commission may destroy the criminal history record
8 information after the information is used for the purposes
9 authorized by this section.

10 (e) The court, as that term is defined by Section 1002.008,
11 Estates Code, shall use the information obtained or provided under
12 Subsection (a), (a-4)(1), (a-5), or (a-6) only in determining
13 whether to:

14 (1) appoint, remove, or continue the appointment of a
15 private professional guardian, a guardianship program, or the
16 Health and Human Services Commission [~~Department of Aging and~~
17 ~~Disability Services~~]; or

18 (2) appoint any other person proposed to serve as a
19 guardian under Title 3, Estates Code, including a proposed
20 temporary guardian and a proposed successor guardian, other than an
21 attorney.

22 (f) Criminal history record information obtained by the
23 guardianship certification program of the Judicial Branch
24 Certification Commission under Subsection (a-4)(2) may be used for
25 any purpose related to the issuance, denial, renewal, suspension,
26 or revocation of a certificate issued by the commission.

27 (g) A person commits an offense if the person releases or

1 discloses any information received under this section without the
2 authorization prescribed by Subsection (c) or (d). An offense under
3 this subsection is a Class A misdemeanor.

4 (h) The county clerk may charge a \$10 fee to recover the
5 costs of obtaining criminal history information records authorized
6 by Subsection (a).

7 (i) This section does not prohibit the Health and Human
8 Services Commission [~~Department of Aging and Disability Services~~]
9 from obtaining and using criminal history record information as
10 provided by other law.

11 SECTION 13. Section [411.13861](#), Government Code, is amended
12 to read as follows:

13 Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD
14 INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION [~~DEPARTMENT OF~~
15 ~~AGING AND DISABILITY SERVICES~~]. (a) The Health and Human Services
16 Commission [~~Department of Aging and Disability Services~~] is
17 entitled to obtain from the Department of Public Safety criminal
18 history record information maintained by the Department of Public
19 Safety that relates to a person:

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

22 (2) who seeks unsupervised visits with a ward of the
23 The Health and Human Services Commission [~~department~~], including a
24 relative of the ward;

25 (3) who is an applicant for employment with the Health
26 and Human Services Commission [~~Department of Aging and Disability~~
27 ~~Services~~] for a position in which the person, as an employee, would

1 have direct access to residents or clients of a facility regulated
2 by the Health and Human Services Commission [~~department~~], as
3 determined by the executive commissioner of the Health and Human
4 Services Commission [~~aging and disability services~~]; or

5 (4) who is an employee of the Health and Human Services
6 Commission [~~Department of Aging and Disability Services~~] and who
7 has direct access to residents or clients of a facility regulated by
8 the Health and Human Services Commission [~~department~~], as
9 determined by the executive commissioner of the Health and Human
10 Services Commission [~~aging and disability services~~].

11 (b) Criminal history record information obtained under
12 Subsection (a) is for the exclusive use of the Health and Human
13 Services Commission [~~Department of Aging and Disability Services~~]
14 and is privileged and confidential.

15 (c) Criminal history record information obtained under
16 Subsection (a) may not be released or disclosed to any person or
17 agency except on court order or with the consent of the person who
18 is the subject of the information. The Health and Human Services
19 Commission [~~Department of Aging and Disability Services~~] may
20 destroy the criminal history record information after the
21 information is used for the purposes authorized by this section.

22 (d) This section does not prohibit the Health and Human
23 Services Commission [~~Department of Aging and Disability Services~~]
24 from obtaining and using criminal history record information as
25 provided by other law.

26 (e) In this section, "ward" has the meaning assigned by
27 Section [1002.030](#), Estates Code.

1 (f) Notwithstanding Subsection (c), the Health and Human
2 Services Commission [~~Department of Aging and Disability Services~~]
3 shall destroy information obtained under Subsection (a)(3) or (4)
4 after the information is used for the purposes authorized by this
5 section.

6 SECTION 14. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2019.