

BILL ANALYSIS

S.B. 1061
By: Zaffirini
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, name-based criminal history checks are all that are required at small employer-based child-care facilities and for most persons involved with a temporary shelter day-care facility. There are several limitations with these name-based checks: they only capture crimes committed in Texas, they may not capture all the names a person has used, and there is no process to notify the Health and Human Services Commission (HHSC) of a person's arrest after the background check. These limitations put children at risk of being cared for by persons who have committed crimes and are a potential danger to their safety. Accordingly, HHSC has recommended that the legislature require an FBI fingerprint-based criminal history check because the FBI notifies requesting entities of subsequent arrests and screens persons for crimes in all states. S.B. 1061 seeks to act on this recommendation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 2 of this bill.

ANALYSIS

S.B. 1061 amends the Human Resources Code to require a person who is subject to the background and criminal history check required in connection with a small employer's employer-based day-care facility to submit to the Health and Human Services Commission (HHSC) a complete set of fingerprints. The bill makes the requirement for a temporary shelter day-care facility to submit a complete set of fingerprints of certain persons required to undergo a criminal history check in connection with that facility applicable to all persons undergoing such a check in connection with the facility.

S.B. 1061 requires the executive commissioner of HHSC to adopt rules to implement the background and criminal history check requirements for these facilities and provides the following with respect to the rules:

- the rules must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety (DPS) and the FBI for the purpose of conducting a criminal history check;
- the rules may require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and
- the rules may allow HHSC to waive a required fingerprint submission under the following circumstances:

- the person for whom the submission is required already has a fingerprint-based criminal history check on file with HHSC obtained under applicable state law or has a fingerprint-based criminal history clearinghouse record that is accessible to HHSC through DPS and obtained under that same law; and
- HHSC has an active subscription to the FBI National Record of Arrest and Prosecution Back Service for the person for whom the fingerprint submission is required.

S.B. 1061 requires HHSC to conduct a state and an FBI criminal history check for each person whose fingerprints are submitted as required by the bill by doing the following:

- submitting the person's fingerprints, or causing the fingerprints to be submitted electronically, to DPS for the purpose of conducting the check; and
- using the resulting information made available by DPS and by the FBI and any other criminal justice agency under applicable state law.

EFFECTIVE DATE

September 1, 2021.