By:  Guillen H.B. No. 4123

A BILL TO BE ENTITLED

AN ACT

relating to the dissemination of criminal history record information by the Department of Public Safety.

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

ARTICLE 1. GENERAL PROVISIONS AND DEPARTMENT OF PUBLIC SAFETY

SECTION 1.01.  This Act pertains to the authority for Texas and national criminal history record information to be released to state agencies and those agencies' handling of the information.

SECTION 1.02.  Section 411.082(2) - (6), Government Code, is amended to add new section (2) and renumber subsequent sections accordingly to read as follows:

(2)  "Applicant" means an individual who submits an application for employment, licensure, certification, or registration which requires a background check using criminal history record information by the department.

(3)  "Application" means an individual who submits an application either by hard copy or electronically for employment, licensure, certification, or registration which requires a background check using criminal history record information by the department.

(~~2~~4)  "Criminal history record information" means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, ~~informations,~~ and other formal criminal charges and their dispositions. The term does not include:

(A)  identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

(B)  driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

(~~3~~5)  "Criminal justice agency" means:

(A)  a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or

(B)  a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(~~46~~)  "Criminal justice purpose" means:

(A)  an activity that is included in the administration of criminal justice; or

(B)  screening of applicants for employment with a criminal justice agency.

(~~5~~7)  "Office of capital and forensic writs" means the office of capital and forensic writs established under Subchapter B, Chapter 78.

(~~6~~8)  "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Section 1.03.  Section 411.891, Government Code, is amended to read as follows:

Sec. 411.0891.  DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) Subject to Section 411.087, the department is authorized to obtain and use criminal history record information maintained by the Federal Bureau of Investigation or the department that relates to a person who:

(1)  is an applicant for or holds a registration issued by the director under Subchapter C, Chapter 481, Health and Safety Code, that authorizes the person to manufacture, distribute, analyze, or conduct research with a controlled substance;

(2)  is an applicant for or holds a registration issued by the department under Chapter 487, Health and Safety Code, to be a director, manager, or employee of a dispensing organization, as defined by Section 487.001, Health and Safety Code;

(3)  is an applicant for or holds an authorization issued by the department under Section 521.2476, Transportation Code, to do business in this state as a vendor of ignition interlock devices;

(4)  is an applicant for or holds certification by the department as an inspection station or an inspector under Subchapter G, Chapter 548, Transportation Code, holds an inspection station or inspector certificate issued under that subchapter, or is the owner of an inspection station operating under that chapter; or

(5)  is an applicant for or holds a certificate of registration issued by the department under Chapter 1956, Occupations Code, to act as a metal recycling entity.

(6)  is an applicant for or holds a license to carry a handgun issued by the department under Subchapter H, Chapter 411, Government Code, or is an applicant for or holds a certification as an instructor issued by the department under that chapter;

(7)  is an applicant for or holds a capitol access pass issued by the department under Section 411.0625, Government Code;

(8)  is an applicant for or holds a license or commission issued by the department under Chapter 1702, Occupations Code;

(b)  The department may release or disclose Texas criminal history record information obtained or used by the department for a purpose described by Subsection (a) to another person or agency only:

(1)  in a criminal proceeding;

(2)  in a hearing conducted by the department;

(3)  under an order from a court; or

(4)  with the consent of the person who is the subject of the criminal history record information.

(c)  This section may not be construed to limit the authority of the department to disseminate criminal history record information as provided by Section 411.083.

(d)  The department may require any person for whom the department is authorized to obtain and use criminal history record information maintained by the Federal Bureau of Investigation or the department under Subsection (a) to submit a complete and legible set of fingerprints to the department on a form prescribed by the department for the purpose of obtaining criminal history record information.

(e)  Criminal history record information obtained from the Federal Bureau of Investigation shall not be disseminated.

Section 1.04.  Section 411.122(d), Government Code, is amended to read as follows:

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

(1)  Texas Appraiser Licensing and Certification Board;

(2)  Texas Board of Architectural Examiners;

(3)  Texas Board of Chiropractic Examiners;

(4)  State Board of Dental Examiners;

(5)  Texas Board of Professional Engineers;

(6)  Texas Funeral Service Commission;

(7)  Texas Board of Professional Geoscientists;

(8)  Health and Human Services Commission, except as provided by Section 411.110, and agencies attached to the commission;

(9)  Texas Board of Professional Land Surveying;

(10)  Texas Department of Licensing and Regulation, except as provided by Section 411.093;

(11)  Texas Commission on Environmental Quality;

(12)  ~~Texas Board~~Executive Council of Physical Therapy and Occupational Therapy Examiners;

(13)  Texas Optometry Board;

(14)  Texas State Board of Pharmacy;

(15)  ~~Texas Board of Physical Therapy Examiners;~~

~~(16)~~Texas State Board of Plumbing Examiners;

(1~~7~~6)  Texas Behavioral Health Executive Council;

(1~~8~~7)  Texas Real Estate Commission;

(1~~9~~)  Texas Department of Transportation;

(~~20~~18)  State Board of Veterinary Medical Examiners;

(~~21~~19)  Texas Department of Housing and Community Affairs;

(2~~2~~0)  secretary of state;

(2~~3~~1)  state fire marshal;

(2~~4~~2)  Texas Education Agency;

(2~~5~~3)  Department of Agriculture; and

(2~~6~~4)  Texas Department of Motor Vehicles.

ARTICLE 2. TEXAS APPRAISAL DISTRICT, APPOINTMENT TO APPRAISAL REVIEW BOARD, AND TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

SECTION 2.01.  Section 411.1296, Government Code, is amended to read as follows:

Sec. 411.1296.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY APPRAISAL DISTRICT, ~~AND~~ APPOINTMENT TO APPRAISAL REVIEW BOARD, AND APPLICANT TO TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. (a) Except as provided by Subsection (b), an appraisal district established by Section 6.01, Tax Code and the Texas Appraiser Licensing and Certification Board, ~~is~~are entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for employment by the appraisal district, ~~or for~~ appointment to the appraisal review board for the appraisal district, or a license or certification as an appraiser trainee, licensed residential appraiser, certified residential appraiser, certified general appraisal, or an appraisal management company regulated by the Texas Appraiser Licensing and Certification Board.

(b)  An appraisal district is not entitled to obtain under this section any information about a person if the appraisal district is entitled to obtain under another section of this subchapter any criminal history record information about the person.

(c)  The appraisal district may provide Texas criminal history record information obtained under this section to the local administrative district judge or to the appraisal review board commissioners appointed by the local administrative district judge.

(d)  Texas criminal history record information obtained by an appraisal district or the Texas Appraiser Licensing and Certification Board under Subsection (a) related to an applicant for employment by the appraisal district, appointment to the appraisal review board for the appraisal district, or a license or certification as an appraiser trainee, licensed residential appraiser, certified residential appraiser, certified general appraisal, or an appraisal management company regulated by the Texas Appraiser Licensing and Certification Board may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (c).

(e)  After an individual is employed, licensed, or certified as described in this section, an appraisal district or the Texas Appraiser Licensing and Certification Board shall destroy the criminal history record information that relates to that individual. An appraisal district or the Texas Appraiser Licensing and Certification Board shall destroy the criminal history record information that relates to:

(1)  an applicant for licensure under (a);

(2)  an applicant for employment with an appraisal district or the Texas Appraiser Licensing and Certification Board after that applicant is employed or, for an applicant who is not employed, after the check of the criminal history record information on that applicant is completed.

(f)  An appraisal district or the Texas Appraiser Licensing and Certification Board shall destroy criminal history record information that relates to an applicant who is not licensed or employed, as applicable.

(g)  An appraisal district or the Texas Appraiser Licensing and Certification Board is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by an appraisal district or the Texas Appraiser Licensing and Certification Board.

(h)  In accordance with Section 411.087, an appraisal district or the Texas Appraiser Licensing and Certification Board may obtain criminal history record information from the Federal Bureau of Investigation identification division through the department.

(i)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 3. TEXAS BOARD OF ARCHITECTURAL EXAMINERS

SECTION 3.01.  Chapter 411, Government Code, is amended by adding Section 411.### to read as follows:

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF ARCHITECTURAL EXAMINERS. (a) The Texas Board of Architectural Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  a person who is:

(A)  an applicant for an architectural registration under Texas Occupations Code Chapter 1051; or

(B)  the holder of an architectural registration under that Chapter;

(2)  a person who is:

(A)  an applicant for a landscape architectural registration under Texas Occupations Code Chapter 1052; or

(B)  the holder of a landscape architectural registration under that Chapter; or

(3)  a person who is:

(A)  an applicant for an interior design registration under Texas Occupations Code Chapter 1053; or

(B)  the holder of an interior design registration under that Chapter.

(b)  Texas criminal history record information obtained by the Texas Board of Architectural Examiners under Subsection (a) may not be released or disclosed to any person except on court order or as provided by Subsection (f).

(c)  After a person is registered, the Texas Board of Architectural Examiners shall destroy the criminal history record information that relates to that person.

(d)  If the Texas Board of Architectural Examiners receives updated criminal history record information from the department that relates to a person who holds an architectural, landscape architectural, or interior design registration, the Texas Board of Architectural Examiners shall destroy the criminal history record information after the check of the criminal history record information on that registration holder is completed.

(e)  The Texas Board of Architectural Examiners shall destroy criminal history record information that relates to an applicant who is not registered.

(f)  The Texas Board of Architectural Examiners is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Board of Architectural Examiners or the State Office of Administrative Hearings, as applicable.

(g)  In accordance with Section 411.087 and/or Texas Occupations Code Section 1051.3041, the Texas Board of Architectural Examiners shall obtain criminal history record information from the Federal Bureau of Investigation identification division for all applicants and holders of architectural, landscape architectural, and interior design registrations.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 4. HEALTH AND HUMAN SERVICES COMMISSION: OFFICE OF INSPECTOR GENERAL

SECTION 4.01.  Section 411.1143, Government Code, is amended to read as follows:

Sec. 411.1143.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AGENCIES OPERATING PART OF MEDICAL ASSISTANCE PROGRAM. (a) The Health and Human Services Commission, an agency operating part of the medical assistance program under Chapter 32, Human Resources Code, or the office of inspector general established under Chapter 531, Government Code, is entitled to obtain from the department the criminal history record information maintained by the department that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1)  Criminal history record information an agency or the office of inspector general is authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1)  a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2)  a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

(b)  Texas criminal history record information obtained by the commission or an agency under Subsection (a):

(1)  may not be released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the written consent of the provider or applicant; and

(2)  must be destroyed after it has been used to determine the eligibility of the provider or applicant to be a provider under Chapter 32, Human Resources Code.

(c)  In accordance with Section 411.087, the commission or an agency under Subsection (a) may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(d)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 5. STATE OFFICE OF ADMINISTRATIVE HEARINGS

SECTION 5.01.  Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1411 to read as follows:

Sec. 411.1411.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) In this section, "office" means the State Office of Administrative Hearings.

(b)  The office is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1)  an employee of, or an applicant for employment with, the office;

(2)  a contractor, volunteer, or intern of the office, or an applicant to serve in one of those capacities; or

(3)  a current or proposed contractor or subcontractor of the office.

(c)  Texas criminal history record information obtained by the office under Subsection (b) may not be released or disclosed to any person except by court order or with the written consent of the person who is the subject of the criminal history record information.

(d)  The office shall destroy criminal history record information obtained under Subsection (b) that relates to:

(1)  an applicant for employment after that applicant is employed or, for an applicant who is not employed, after a final employment determination on that applicant is made; or

(2)  an employee, contractor, volunteer, or intern of the office, after the check of the criminal history record information on that person or entity is completed.

(e)  In accordance with Section 411.087, the office may obtain criminal history information from the Federal Bureau of Investigation identification division.

(f)  Criminal history record information obtained by the office from the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 6. TEXAS ALCOHOLIC BEVERAGE COMMISSION

SECTION 6.01.  Chapter 411, Government Code, is amended by adding Section 411.XXX to read as follows:

Sec. 411.XXX.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION OF THE FEDERAL BUREAU OF INVESTIGATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION. (a) Subject to Section 411.087 and Public Law 92-544, the Texas Alcoholic Beverage Commission is authorized to obtain and use criminal history record information maintained by the Federal Bureau of Investigation that relates to a person who is an applicant for or holds a license, permit, or certificate under the Texas Alcoholic Beverage Code.

(b)  Criminal history record information obtained by the commission under this section may only be released or disclosed as provided in Section 411.084(b).

(c)  This section may not be construed to limit the commission's ability to obtain criminal history record information for criminal justice purposes or as otherwise authorized by other law.

(d)  The commission may require any person for whom the commission is authorized to obtain and use criminal history record information under Subsection (a) to submit a complete and legible set of fingerprints to the commission on a form prescribed by the commission for the purpose of obtaining criminal history record information.

ARTICLE 7. TEXAS BEHAVIORIAL HEALTH EXECUTIVE COUNCIL

SECTION 7.01.  Chapter 411, Government Code, is amended by adding Section 411.XXX to read as follows:

SECTION 411.XXX.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL. (a) The executive council is entitled to obtain from the Department of Public Safety of the State of Texas, criminal history record information maintained by the department that relates to a person who is an applicant for or licensed as:

(1)  a licensed psychologist, licensed psychological associate, or licensed specialist in school psychology under Chapter 501 of the Occupations Code;

(2)  a licensed marriage and family therapist or licensed marriage and family therapist associate under Chapter 502 of the Occupations Code;

(3)  a licensed professional counselor or licensed professional counselor associate under Chapter 503 of the Occupations Code; or

(4)  a licensed baccalaureate social worker, licensed master social worker, or licensed clinical social worker under Chapter 505 of the Occupations Code.

(b)  Texas criminal history record information obtained by the executive council under subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person that is the subject of the criminal history record information, or as provided by Subsection (f).

(c)  After a person is licensed, the executive council shall destroy the criminal history record information that relates to that person.

(d)  The executive council shall destroy criminal history record information that relates to an applicant who is not licensed.

(e)  After a license has been renewed or denied renewal, the executive council shall destroy criminal history record information that relates to the license holder renewing or attempting to renew the license.

(f)  The executive council is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the executive council or State Office of Administrative Hearings.

(g)  In accordance with Section 411.087 of the Government Code, the executive council shall obtain criminal history record information from the Federal Bureau of Investigation identification division by fingerprint submission.

(h)  Criminal history record information obtained from the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 8. TEXAS DEPARMENT OF MOTOR VEHICLES

SECTION 8.01.  Chapter 411, Government Code, is amended by adding Section 411.### to read as follows:

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF MOTOR VEHICLES. (a) The Texas Department of Motor Vehicles 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 or holds a general distinguishing number under Chapter 503, Transportation Code;

(2)  an applicant for or holds a license under Chapter 2301 or Chapter 2302, Occupations Code; or

(3)  an officer, director, member, manager, principal, partner, trustee, or other person acting in a representative capacity for an applicant, general distinguishing number holder, or license holder and whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Chapter 503, Transportation Code or Chapter 2301 or Chapter 2302, Occupations Code.

(b)  Texas criminal history record information obtained by the Texas Department of Motor Vehicles under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (c).

(c)  The Texas Department of Motor Vehicles is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing in which the Texas Department of Motor Vehicles is a party.

(d)  In accordance with Section 411.087, the Texas Department of Motor Vehicles may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(e)  Criminal history record information obtained from the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 9. TEXAS REAL ESTATE COMMISSION

SECTION 9.01.  Chapter 411, Government Code, is amended by adding Section 411.### to read as follows:

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS REAL ESTATE COMMISSION AND TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. (a) In this section:

(1)  "Commission" means the Texas Real Estate Commission.

(2)  "Board" means the Texas Appraiser Licensing and Certification Board.

(b)  The commission is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  an applicant for an initial broker or sales agent license or renewal of a broker or sales agent license under Chapter 1101, Occupations Code;

(2)  an applicant for an original certificate of registration as an easement or right-of-way agent or renewal of a certificate of registration as an easement or right-of-way agent under Chapter 1101, Occupations Code; or

(3)  an applicant for an apprentice inspector license, a real estate inspector license, or a professional inspector license or renewal of an apprentice inspector license, a real estate inspector license, or a professional inspector license under Chapter 1102, Occupations Code.

(c)  The board is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  an applicant for an appraiser trainee license, a residential appraiser license, a residential appraiser certificate or a general appraiser certificate or renewal of an appraiser trainee license, a residential appraiser license, a residential appraiser certificate, or general appraiser certificate under Chapter 1103, Occupations Code; or

(2)  an applicant for registration or renewal of a registration as an appraisal management company under Chapter 1104, Occupations Code.

(d)  Neither the commission or the board is prohibited from disclosing Texas criminal history record information obtained under Subsections (b) or (c) in a criminal proceeding or in a hearing conducted by the State Office of Administrative Hearings.

(e)  In accordance with Section 411.087, and Sections 1101.3521, 1101.4521, 1101.5041, 1102.1051, and 1103.2031 Occupations Code, both the commission and board may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(f)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

SECTION 9.02.  Sec. 1101.002, Occupations Code, is amended by adding new subdivision (3-a) as follows:

(3-a)  "Easement or right-of-way agent" means a person who sells, buys, leases, or transfers an easement or right-of-way for another, for compensation or with the expectation of receiving compensation, for use in connection with telecommunication, utility, railroad, or pipeline service.

SECTION 9.03.  Sec. 1101.501, Occupations Code, is amended as follows:

Sec. 1101.501.  CERTIFICATE REQUIRED. A person may not act as an easement or right-of-way agent [~~sell, buy, lease, or transfer an easement or right-of-way for another, for compensation or with the expectation of receiving compensation, for use in connection with telecommunication, utility, railroad, or pipeline service~~] unless the person:

(1)  holds a license issued under this chapter; or

(2)  holds a certificate of registration issued under this subchapter.

SECTION 9.04.  Sec. 1101.5041, Occupations Code, is amended as follows:

Sec. 1101.5041.  CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR CERTIFICATE. An applicant for an original certificate of registration as an easement or right-of-way agent or renewal of a certificate of registration as an easement or right-of-way agent must comply with the criminal history record check requirements of Section 1101.3521.

ARTICLE 10. TEXAS STATE BOARD OF PLUMBING EXAMINERS

SECTION 10.01.  Chapter 411, Government Code, is amended by adding Section 411.XXX to read as follows:

Sec. 411.XXX.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: Texas State Board of Plumbing Examiners. (a) The Texas State Board of Plumbing Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to an applicant for a license, registration, endorsement, or certificate under Chapter 1301, Texas Occupations Code, Plumbing License Law (PLL) including Master Plumber, Journeyman Plumber, Plumbing Inspector, Tradesman-Plumber Limited, Plumber's Apprentice, Medical Gas Piping Installation Endorsement, Multipurpose Residential Fire Protection Sprinkler Specialist Endorsement, and Water Supply Protection Specialist Endorsement.

(b)  Texas criminal history record information obtained by the Texas State Board of Plumbing Examiners under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(c)  After the applicant is licensed, registered, endorsed, or certified, the Texas State Board of Plumbing Examiners shall destroy the criminal history record information that relates to that applicant.

(d)  The Texas State Board of Plumbing Examiners may destroy criminal history record information that relates to an applicant who is not licensed, registered, endorsed, or certified, as applicable.

(e)  The Texas State Board of Plumbing Examiners is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas State Board of Plumbing Examiners.

(f)  In accordance with Section 411.087 and Chapter 1301, Texas Occupations Code, the Texas State Board of Plumbing Examiners shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(g)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 11. TEXAS BOARD OF CHIROPRACTIC EXAMINERS

SECTION 11.01.  Chapter 411, Government Code, is amended by adding Section 411.XXX to read as follows:

Sec. 411.XXX.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF CHIROPRACTIC EXAMINERS. (a) The Texas Board of Chiropractic Examiners are entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  a person who is an applicant for a license or registration under Texas Occupations Code Chapter 201; or

(2)  the holder of a license or registration under Texas Occupations Code Chapter 201.

(b)  Texas criminal history record information obtained by the Texas Board of Chiropractic Examiners under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(c)  After an entity is licensed or registered, the Texas Board of Chiropractic Examiners shall destroy the criminal history record information that relates to that entity.

(d)  The Texas Board of Chiropractic Examiners shall destroy criminal history record information that relates to an applicant who is not licensed or registered, as applicable.

(e)  The Texas Board of Chiropractic Examiners is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted under the authority of the Texas Board of Chiropractic Examiners.

(f)  In accordance with Section 411.087, the Texas Board of Chiropractic Examiners shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(g)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 12. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

SECTION 12.01.  Section 411.105, Government Code, is amended to read as follows:

Sec. 411.105.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. (a) The Texas State Board of Public Accountancy is entitled to obtain from the department and the Federal Bureau of Investigation, pursuant to 901.169 of the Public Accountancy Act, Chapter 901 Occupations Code, criminal history record information maintained by the department and the Federal Bureau of Investigation that relates to~~a person who is~~:

(1)  an individual, pursuant to Chapter 901 of the Occupations Code, who is:

(A)  ~~an applicant for certification as a certified public accountant under Chapter 901, Occupations Code; or~~ an applicant to take the uniform CPA examination under that Act~~.~~;

(B)  an applicant to be certified;

(C)  an applicant to be licensed;

(D)  an applicant to be reinstated;

(E)  an applicant to have a license renewed;

(F)  an applicant to become a non-CPA owner of a CPA firm; or

(G)  a license holder or non-CPA owner of a CPA firm.

(b)  Texas criminal history record information obtained by the board under Subsection (a) shall not be released or disclosed to any person except on court order, with the written consent of the person that is the subject of the criminal history record information, or as provided by Subsection (d).

(c)  After an individual's application is approved or denied, or an investigation completed, the board shall destroy the criminal history record information that relates to that individual.

(d)  The board is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by or on behalf of the board.

(e)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 13. TEXAS OPTOMETRY BOARD

SECTION 13.01.  Chapter 411, Government Code, is amended by adding Section 411. ### to read as follows:

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: Texas Optometry Board. (a) The Texas Optometry Board is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person who is:

(A)  an applicant for a license under Section 351.251, Texas Occupations Code; or

(B)  the holder of a license under Section 351.302, Texas Occupations Code.

(b)  Texas criminal history record information obtained by the Texas Optometry Board under Subsection (a) shall not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(c)  After a person is licensed, the Texas Optometry Board shall destroy the criminal history record information that relates to that person.

(d)  The Texas Optometry Board shall destroy criminal history record information that relates to an applicant who is not licensed, as applicable.

(e)  The Texas Optometry Board is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Optometry Board.

(g)  In accordance with Section 411.087, Sec. 351.2525, Texas Occupations Code, and Sec. 351.3045, Texas Occupations Code, the Texas Optometry Board shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 14. EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS

SECTION 14.01.  Chapter 411, Government Code, is amended by adding Section 411.XXX to read as follows:

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EXECUTIVE COUNCIL OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY EXAMINERS.

(a)  The Executive Council of Physical Therapy and Occupational Therapy Examiners 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 or the holder of a physical therapist or physical therapist assistant license under Chapter 453, Occupations Code; or

(2)  an applicant for or the holder of an occupational therapist or occupational therapy assistant license under Chapter 454, Occupations Code.

(b)  Texas criminal history record information obtained by the Executive Council of Physical Therapy and Occupational Therapy Examiners under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (f).

(c)  After a person is licensed, the Executive Council of Physical Therapy and Occupational Therapy Examiners shall destroy the criminal history record information that relates to that person.

(d)  The Executive Council of Physical Therapy and Occupational Therapy Examiners shall destroy criminal history record information that relates to an applicant who is not licensed.

(e)  After a license has been renewed or denied renewal, the Executive Council of Physical Therapy and Occupational Therapy Examiners shall destroy criminal history record information that relates to the license holder who is renewing or attempting to renew the license.

(f)  The Executive Council of Physical Therapy and Occupational Therapy Examiners is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Executive Council of Physical Therapy and Occupational Therapy Examiners.

(g)  In accordance with Section 411.087, the Executive Council of Physical Therapy and Occupational Therapy Examiners shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 15. HEALTH AND HUMAN SERVICES

SECTION 15.01.  Section 411.110, Government Code, is amended to read as follows:

Sec. 411.110.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a) The Department of State Health Services and the Health and Human Services Commission are entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is required to be fingerprinted and:

(1)  ~~the~~ a person ~~who~~ is:

(A)  an applicant for a license or certificate under the Emergency Health Care Act (Chapter 773, Health and Safety Code);

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

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

(2)  is an applicant for a license or a license holder under Subchapters I, L or N, Chapter 431, Health and Safety Code;

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

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

(B)  the South Texas Health Care System;

(4)  is an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with the Council on Sex Offender Treatment or other division or component of the Health and Human Services Commission that monitors sexually violent predators as described by Section 841.003(a), Health and Safety Code; ~~or~~

(5)  is a person authorized to access vital records or the vital records electronic registration system under Chapter 191, Health and Safety Code, including an employee of or contractor for the Department of State Health Services, a local registrar, a medical professional, or a funeral director~~.~~; or

(6)  is an applicant for a license or a license holder under Subchapter C, Chapter 443, Health and Safety Code.

(b)  Texas ~~C~~criminal history record information obtained by the Department of State Health Services or the Health and Human Services Commission under Subsection (a) may not be released or disclosed to any person except:

(1)  on court order,

(2)  with the written consent of the person or entity

that is the subject of the criminal history record information,

(3)  by either the Department of State Health Services or the Health and Human Services Commission that is sharing with the other agency information obtained under this section for the purposes authorized by this section; or

(4)  ~~or~~ as provided by Subsection (~~e~~c).

(c)  After an entity is licensed or certified, the Department of State Health Services or the Health and Human Services Commission, as applicable, shall destroy the criminal history record information that relates to that entity. The Department of State Health Services or the Health and Human Services Commission, as applicable, shall destroy the criminal history record information that relates to:

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

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

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

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

(f)  The Department of State Health Services or the Health and Human Services Commission may not consider offenses described by Section 542.304, Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

(g)  In accordance with Section 411.087 and consistent with the public policy of this state, the Department of State Health Services and the Health and Human Services Commission may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

SECTION 15.02.  Section 411.1103, Government Code, is amended to read as follows:

Sec. 411.1103  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ~~DEPARTMENT OF STATE HEALTH SERVICES AND~~ HEALTH AND HUMAN SERVICES COMMISSION AND PERSONNEL AT STATE HOSPITALS. (a) The ~~Department of State Health Services and the~~ Health and Human Services Commission is~~are~~ entitled to obtain from the department as provided by Subsection (b) criminal history record information maintained by the department that relates to a person:

(1)  who is required to be fingerprinted and who is:

(A)  an applicant for employment at a state hospital established under Chapter 552, Health and Safety Code;

(B)  an employee of a state hospital established under Chapter 552, Health and Safety Code;

(C)  a person who contracts or may contract to provide goods or services to the ~~Department of State Health Services or the~~ Health and Human Services Commission~~, as applicable,~~ at a state hospital established under Chapter 552, Health and Safety Code, or an employee of or applicant for employment with that person;

(D)  a volunteer with a state hospital established under Chapter 552, Health and Safety Code; or

(E)  an applicant for a volunteer position with a state hospital established under Chapter 552, Health and Safety Code; and

(2)  who is required to be fingerprinted and who would be placed in direct contact with a patient at a state hospital established under Chapter 552, Health and Safety Code.

(b)  Subject to Section 411.087 and consistent with the public policy of this state, the [Department of State Health Services and the] Health and Human Services Commission is [are] entitled to:

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

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

~~(b)~~ (c)  The ~~Department of State Health Services or the~~ Health and Human Services Commission may not release or disclose to any entity, public or private, criminal history record information obtained under Subsection (b)(1). Texas ~~C~~criminal history record information obtained by the ~~Department of State Health Services or the~~ Health and Human Services Commission under Subsection (b)(2) ~~this section~~ may not be released or disclosed to any person except:

(1)  on court order;

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

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

(4)  as provided by Subsection (d)~~(c)~~.

~~(c)~~(d)  The ~~Department of State Health Services or the~~ Health and Human Services Commission is not prohibited from releasing criminal history record information obtained under Subsection (d)(2) ~~this section~~ to the person who is the subject of the criminal history record information.

(e)  The Health and Human Services Commission shall destroy the criminal history record information that relates to:

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

(2)  an employee or contractor after the check of the criminal history record information on that employee or contractor is completed; or

(3)  a volunteer after the check or the criminal history record information is completed.

~~(e)~~ (f)  This section does not prohibit the ~~Department of State Health Services or the~~ Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

SECTION 15.03.  Section 411.1105, Government Code, is amended to read as follows:

Sec. 411.1105  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ~~DEPARTMENT OF STATE HEALTH SERVICES AND~~ HEALTH AND HUMAN SERVICES COMMISSION. (a) The ~~Department of State Health Services and the~~ Health and Human Services Commission is~~are~~ entitled to obtain from the department as provided by Subsection (b) criminal history record information maintained by the department that relates to a person who is required to be fingerprinted and who is:

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

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

(b)  Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

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

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

(c)  In addition to information obtained from the Federal Bureau of Investigation under Section 411.087 and consistent with the public policy of this state, the ~~Department of State Health Services and the~~Health and Human Services Commission is~~are~~ entitled to obtain information relating to the wanted persons status of an individual listed in Subsection (a).

~~(c)~~(d)  Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the ~~Department of State Health Services or the~~Health and Human Services Commission under Subsection (b)(2) ~~(a)~~ may not be released or disclosed to any person or entity, public or private, except~~:~~

(1)  on court order~~,;~~

(2)  with the consent of the person who is the subject of the criminal history record information~~,~~; or

(3)  as provided by Subsection (e)~~(d)~~.

(e)~~(d)~~  The ~~Department of State Health Services or the~~Health and Human Services Commission~~, as applicable,~~ may provide the applicant or licensee with a copy of the person's criminal history record information obtained from the Department of Public Safety~~, Federal Bureau of Investigation identification division,~~ or another law enforcement agency.

(f)  The Health and Human Services Commission shall destroy the criminal history record information that relates to:

(1)  an applicant for a chemical dependency counselor's license, a counselor intern's registration, or a clinical supervisor certification under Chapter 504, Occupations Code, under Subsection (a) (1) after the check of the criminal history record information on that applicant is completed; or

(2)  the holder of a license, registration, or certification under that chapter after the check of the criminal history record information on that holder is completed.

(g)  This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

SECTION 15.04.  Section 411.1106, Government Code, is amended 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 as provided by Subsection (c) that relates to a person who is required to be fingerprinted and who is:

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

(A)  the eligibility services division of the commission as established by Section 531.008(d); or

(B)  the commission's office of inspector general as established by Section 531.008(c)(2) and Subchapter C, Chapter 531; or

(C)  the regulatory services division of the commission as established by Section 531.008(c)(3); or

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

(c)  Subject to Section 411.087 and consistent with the public policy of this state, the commission is entitled to:

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

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

~~(c)~~(d)  Criminal history record information obtained by the commission under Subsection (c)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the executive commissioner of the commission, or by the executive commissioner's designee, under Subsection (c)(2) [(b)] may not be released or disclosed, except:

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

(2)  on court order;

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

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

(5)  as provided by Subsection (e) [(d)].

~~(d)~~(e)  The commission is not prohibited from disclosing criminal history record information obtained under Subsection ~~(b)(2)~~(c)(2) in a criminal proceeding or in a hearing conducted by the commission.

~~(e)~~(f)  The commission shall destroy all criminal history record information obtained under Subsection ~~(b)~~(c) as soon as practicable after the information is used for its authorized purpose.

~~(f)~~(g)  This section does not prohibit the commission from obtaining and using criminal history record information as provided by other law.

SECTION 15.05.  Section 411.1131, Government Code, is amended to read as follows:

Sec. 411.1131.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) The Health and Human Services Commission is entitled to obtain from the department as provided by Subsection (b) criminal history record information maintained by the department that relates to a person who is required to be fingerprinted and who is an applicant for a staff position at an outdoor training program for children who are deaf or hard of hearing conducted by a private entity through a contract with the Health and Human Services Commission in accordance with Section 81.013, Human Resources Code.

(b)  Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

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

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

(c) [(b)]  Criminal history record information obtained by the Health and Human Services Commission under Subsection (b) [(a)] may be used only to evaluate an applicant for a staff position at an outdoor training program for children who are deaf or hard of hearing. The Health and Human Services Commission may release or disclose the information obtained under Subsection (b)(2) to a private entity described by Subsection (a) for that purpose.

(d) [(c)] The Health and Human Services Commission may not release or disclose information obtained under Subsection (b)(1) to any other person or entity, public or private. The Health and Human Services Commission may not release or disclose information obtained under Subsection (b)(2) [(a)], except on court order or with the consent of the person who is the subject of the criminal history record information, and shall destroy all criminal history record information obtained under Subsection (b) [(a)] after the information is used for its authorized purpose.

(e)  This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

SECTION 15.06.  Section 411.114, Government Code, is amended to read as follows:

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

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

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

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

(ii)  any person or entity acting as an authorized agent of the Department of Family and Protective Services.

(B)  "Elderly person" has the meaning assigned by Section 48.002, Human Resources Code.

(D)  "Person with a disability" has the meaning assigned by Section 48.002, Human Resources Code.

(2)  The Department of Family and Protective Services or the Health and Human Services Commission, as applicable, shall obtain from the department criminal history record information maintained by the department that relates to a person who is:

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

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

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

(D)  an applicant selected for a position with the Department of Family and Protective Services or the Health and Human Services Commission, the duties of which include direct delivery of protective services to children, elderly persons, or persons with a disability;

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

(F)  a registered volunteer with the Department of Family and Protective Services or the Health and Human Services Commission;

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

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

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

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

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

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

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

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

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

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

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

(C)  a volunteer or applicant volunteer with the Department of Family and Protective Services or the Health and Human Services Commission regardless of the duties to be performed, including a registered volunteer;

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

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

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

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

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

(I)  a relative of a child in the care of the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, to the extent necessary to comply with Section 162.007, Family Code;

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

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

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

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

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

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

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

(4)  Subject to Section 411.087 and consistent with the public policy of this state, the Department of Family and Protective Services and the Health and Human Services Commission are entitled to:

(A)  obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person who is required to be fingerprinted and who is described by Subdivision (2) or (3); and

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

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

(6)  Criminal history record information obtained by the Department of Family and Protective Services or the Health and Human Services Commission under this subsection may not be released to any person except:

(A)  on court order;

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

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

(D)  as provided by Subdivision (7).

(7)  Subject to Subdivision (8), the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, is not prohibited from releasing criminal history record information obtained under this subsection to:

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

(B)  a child-placing agency listed in Subdivision (2) that is seeking to verify or approve a foster or adoptive home under procedures authorized by federal law;

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

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

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

(D)  an elderly person or a person with a disability who is an alleged victim of abuse, neglect, or exploitation and who resides with the alleged perpetrator of that abuse, neglect, or exploitation if:

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

(ii)  the Department of Family and Protective Services or the Health and Human Services Commission, as applicable, determines that the release of information to the person is necessary to ensure the safety or welfare of the person.

(8)  The Department of Family and Protective Services or the Health and Human Services Commission may only release to a person described by Subdivision (7)(B), (C), or (D) criminal history record information that that department or commission obtains from the Department of Public Safety's computerized criminal history system.

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

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

SECTION 15.07.  Section 411.1142, Government Code, is amended to read as follows:

Sec. 411.1142.  ACCESS TO CRIMINAL HISTORY RECORD: EARLY CHILDHOOD INTERVENTION PROGRAM WITHIN HEALTH AND HUMAN SERVICES COMMISSION. (a) The Early Childhood Intervention program within the Health and Human Services Commission, as established by Chapter 73, Human Resources Code, is entitled to obtain criminal history record information as provided by Subsection (b) [maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency] that relates to an employee or an applicant for permanent, temporary, or consultative employment or for volunteer positions whose employment or potential employment or volunteer position with the program or a local provider involves the delivery of early childhood intervention services or involves direct interactions with or the opportunity to interact and associate with children.

(b)  Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1)  obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a) and who is required to be fingerprinted; and

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

(c)  Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(2) [(a)] may not be released or disclosed to any person except:

(1)  on court order; [,]

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

(3)  as provided by Subsection (e) [(d)].

(d) [(c)] The Health and Human Services Commission shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(e) [(d)] The Health and Human Services Commission may provide the applicant, employee, professional consultant, or volunteer with a copy of the person's criminal history record information obtained from the Department of Public Safety[, Federal Bureau of Investigation identification division,] or another law enforcement agency.

(f) [(e)] The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to program employees, professional consultants, and applicants for permanent, temporary, or consultative employment or for volunteer positions whose employment or potential employment or volunteer position with the Health and Human Services Commission or a local provider involves the delivery of early childhood intervention services or involves direct interactions with or the opportunity to interact and associate with children.

SECTION 15.08.  Section 411.1143, Government Code is amended to read as follows:

Sec. 411.1143.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AGENCIES OPERATING PART OF MEDICAL ASSISTANCE PROGRAM. (a) The Health and Human Services Commission, an agency operating part of the medical assistance program under Chapter 32, Human Resources Code, or the office of inspector general established under Chapter 531, Government Code, is entitled to obtain from the department the criminal history record information maintained by the department that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(b)  Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission and the office of inspector general are entitled to:

(1)  obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described Subsection (a) and who is required to be fingerprinted; and

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

(c) [(a-1)]  Criminal history record information the Health and Human Services Commission [an agency] or the office of inspector general is authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1)  a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2)  a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

(d) ([b]) Criminal history record information obtained by the Health and Human Services Commission or the office of inspector general under Subsection (b)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the Health and Human Services Commission or the office of inspector general commission or an agency under Subsection (b)(2) [(a)] may not be released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the provider or applicant.

(e)  The Health and Human Services Commission and the office of inspector general shall destroy criminal history record information obtained under this section after the information is used for its authorized purpose.

(f)  This section does not prohibit the Health and Human Services Commission or the office of inspector general from obtaining and using criminal history record information as provided by other law.

SECTION 15.09.  Section 411.1144, Government Code, is amended to read as follows:

Sec. 411.1144  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND [AGENCIES WITH] EMPLOYEES, CONTRACTORS, OR VOLUNTEERS AT STATE SUPPORTED LIVING CENTERS. (a) The [Department of State Health Services and the] Health and Human Services Commission is [are] entitled to obtain from the department as provided by Subsection (b) criminal history record information maintained by the department that relates to a person:

(1)  who is required to be fingerprinted and who is:

(A)  an applicant for employment with the Health and Human Services Commission [agency];

(B)  an employee of the Health and Human Services Commission [agency];

(C)  a volunteer with the Health and Human Services Commission [agency];

(D)  an applicant for a volunteer position with the Health and Human Services Commission [agency];

(E)  an applicant for a contract with the Health and Human Services Commission [agency]; or

(F)  a contractor of the Health and Human Services Commission [agency]; and

(2)  who is required to be fingerprinted and who would be placed in direct contact with a resident or client of a state supported living center, as defined by Section 555.001, Health and Safety Code.

(b) [(d)]  Subject to Section 411.087 and consistent with the public policy of this state, the [Department of State Health Services and the] Health and Human Services Commission is [are] entitled to:

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

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

(c) [(b)]  Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the Health and Human Services Commission [an agency] under Subsection (b)(2) [(a)] may not be released or disclosed to any person except:

(1)  on court order;

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

(3)  for purposes of an administrative hearing held by the agency concerning the person who is the subject of the criminal history record information;

(4)  as provided by Subsection (d) [(c)].

(d) [(c)]  The Health and Human Services Commission is prohibited from releasing criminal history record information obtained under Subsection (b)(1) to the person who is the subject of the criminal history record information. The Health and Human Services Commission [An agency] is not prohibited from releasing criminal history record information obtained under Subsection (b)(2) [(a) or (d)] to the person who is the subject of the criminal history record information.

(e)  The Health and Human Services Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized purpose.

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

SECTION 15.10.  Sec. 411.115. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION; LOCAL AUTHORITIES; COMMUNITY CENTERS. (a) In this section, "local mental health authority," "local intellectual and developmental disability authority," and "community center" have the meanings assigned by Section 531.002, Health and Safety Code.

(b)  The Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, is entitled to obtain from the department as provided by Subsection (c) criminal history record information maintained by the department that relates to a person:

(1)  who is:

(A)  an applicant for employment with the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center;

(B)  an employee of the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center;

(C)  an applicant for employment with or an employee of a business or person that contracts with the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and

developmental disability authority, or a community center to provide residential services to patients with mental illness or clients with an intellectual or developmental disability who were furloughed or discharged from a Department of State Health Services facility, a Health and Human Services Commission facility, or a community center, as applicable;

(D)  a volunteer with the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center; or

(E)  a volunteer applicant; and

(2)  who would be placed in direct contact with patients with mental illness or clients with an intellectual or developmental disability.

(c)  Subject to Section 411.087 and consistent with the public policy of this state, the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, is entitled to:

(1)  obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described Subsection (b) and who is required to be fingerprinted; and

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

(d)  Criminal history record information obtained by the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, under Subsection (c)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center under Subsection (c)(2) [(b)] may not be released or disclosed to a person, other than the contractor that employs the person who is the subject of the criminal history record information, except on court order or with the consent of the person who is the subject of the criminal history record information.

(e)  The Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, shall collect and destroy criminal history record information that relates to a person immediately after making an employment decision or taking a personnel action relating to the person who is the subject of the criminal history record information.

(f)  This section does not prohibit the Department of State Health Services, the Health and Human Services Commission, a local mental health or intellectual and developmental disability authority, or a community center, as applicable, from obtaining and using criminal history record information as provided by other law.

SECTION 15.11.  Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1161 to read as follows:

Section 411.1161. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND NURSE AIDE CERTIFICATION, MEDICATION AIDE PERMIT, AND NURSING FACILITY ADMINISTRATOR LICENSE. (a) The Health and Human Services Commission is entitled to obtain as provided by Subsection (d) criminal history record information that relates to a person who is required to be fingerprinted and who is an initial or renewal applicant for:

(1)  a nurse aide certification with inclusion in the nurse aide registry established under Chapter 250, Health and Safety Code;

(2)  a medication aide permit issued under Chapter 142, Health and Safety Code; or

(3)  a nursing facility administrator license issued under Chapter 242, Health and Safety Code.

(b)  Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

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

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

(c)  Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(2) may not be released or disclosed to any person except:

(1)  on court order;

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

(3)  for purposes of an administrative hearing held by the Health and Human Services Commission concerning the person who is the subject of the criminal history record information;

(4)  as provided by Subsection (d).

(d)  The Health and Human Services Commission is prohibited from releasing criminal history record information obtained under Subsection (b)(1) to the person who is the subject of the criminal history record information. The Health and Human Services Commission is not prohibited from releasing criminal history record information obtained under Subsection (b)(2) to the person who is the subject of the criminal history record information.

(f)  The Health and Human Services Commission shall destroy criminal history record information that is obtained under this section after the information is used for its authorized

purpose.

(g)  This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

SECTION 12.  Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) The Health and Human Services Commission is entitled to obtain from the Department of Public Safety as provided by Subsection (b) 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;

(2)  who seeks unsupervised visits with a ward of the Health and Human Services Commission, including a relative of the ward;

(3)  who is an applicant for employment with the Health and Human Services Commission for a position in which the person, as an employee, would have direct access to residents or clients of a facility regulated by the Health and Human Services Commission, as determined by the executive commissioner of that commission; or

(4)  who is an employee of the Health and Human Services Commission and who has direct access to residents or clients of a facility regulated by that commission, as determined by the executive commissioner of that commission.

(b)  Subject to Section 411.087 and consistent with the public policy of this state, the Health and Human Services Commission is entitled to:

(1)  obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a) and who is required to be fingerprinted; and

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

(c) [(b)]  Criminal history record information obtained under Subsection (a) is for the exclusive use of the Health and Human Services Commission and is privileged and confidential.

(d) [(c)]  Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by the Health and Human Services Commission under Subsection (b)(2) [(a)] may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The Health and Human Services Commission may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(e) [(d)]  This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.

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

(g) [(f)]  Notwithstanding Subsection (d) [(c)], the Health and Human Services Commission shall destroy information obtained under Subsection (a)(3) or (4) after the information is used for the purposes authorized by this section.

SECTION 13.  Sec. 411.1387. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: FACILITY, REGULATORY AGENCY, OR PRIVATE AGENCY. (a) In this section, "facility," "regulatory agency," and "private agency" have the meanings assigned by Section 250.001, Health and Safety Code.

(b)  A regulatory agency is entitled to obtain from the department as provided by Subsection (c) criminal history record information maintained by the department that relates to a person who is:

(1)  an applicant for employment at or an employee of a facility other than a facility licensed under Chapter 142, Health and Safety Code; or

(2)  an applicant for employment at or an employee of a facility licensed under Chapter 142, Health and Safety Code, if the duties of employment involve direct contact with a consumer in the facility.

(c)  Subject to Section 411.087 and consistent with the public policy of this state, a regulatory agency is entitled to:

(1)  obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a) and who is required to be fingerprinted; and

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

(d) [(b-1)]  A facility or a private agency on behalf of a facility is entitled to obtain from the department as provided by Subsection (e) criminal history record information maintained by the department that relates to a person who is:

(1)  an applicant for employment with, an employee of, or a volunteer with the facility;

(2)  an applicant for employment with or an employee of a person or business that contracts with the facility; or

(3)  a student enrolled in an educational program or course of study who is at the facility for educational purposes.

(e)  Subject to Section 411.087 and consistent with the public policy of this state, a facility ~~or a private agency on behalf of a facility~~ is entitled to:

(1)  obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a) and who is required to be fingerprinted; and

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

(f) [(c)]  A facility may:

(1)  obtain directly from the department criminal history record information on a person described by Subsection (d) [(b-1)]; or

(2)  authorize a private agency to obtain that information from the department.

(g) [(d)]  A private agency obtaining criminal history record information on behalf of a facility under Subsection (c) shall forward the information received to the facility requesting the information.

(h) [(e)]  Criminal history record information obtained by a facility or regulatory agency under Subsections (c)(1) and (e)(1) may not be released or disclosed to any other person or entity, public or private. Criminal history record information obtained by a facility, regulatory agency, or private agency on behalf of a facility under Subsections (c)(2) and (e)(2) [(b) or (b-1)] may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

(i)  Criminal history record information obtained by a facility, regulatory agency, or private agency on behalf of a facility under this section shall be destroyed after the information is used for its authorized purpose.

(j)  This section does not prohibit a facility, regulatory agency, or private agency on behalf of a facility from obtaining and using criminal history record information as provided by other law.

SECTION 15.14.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 16. TEXAS BOARD OF NURSING

Sec. 411.125.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF NURSING. The Texas Board of Nursing is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1)  is an applicant for vocational, registered, or advanced practice registered nurse licensure, or the holder of a license issued by the board;

(2)  has requested a determination of eligibility for a license from the board; [or]

(3)  is accepted for enrollment in a nursing educational program that prepares the person for licensure as a vocational, registered, or advanced practice registered nurse; or

(4) [(3)]  is subject to investigation by the board in connection with a complaint or formal charge against the person.

(b)  Texas criminal history record information obtained by the Texas Board of Nursing under Subsection (a) may not be released or disclosed to any person except:

(1)  as required under a court order;

(2)  to a nursing board that is a member of the nurse licensure compact under the Occupations Code Chapter 304;

(3)  with the written consent of the person or entity that is the subject of the criminal history record information; or

(4)  as provided by Subsection (d).

(c)  Criminal history record information obtained by the Texas Board of Nursing shall be destroyed by the agency after a final determination is made and all appeals are concluded in the matter for which the information was obtained.

(d)  The Texas Board of Nursing is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding, a contested case proceeding conducted by the State Office of Administrative Hearings, or as part of an appeal of a contested case proceeding.

(e)  In addition to the information to which the board is entitled under Section 411.125 and this section, the board may request and receive criminal history record information from the Federal Bureau of Investigation in accordance with Section 411.087.

(f)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

Sec. 301.2511.  CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE APPLICANTS.

(a)  An applicant for a vocational, registered, or advanced practice registered nurse license must submit to the board, in addition to satisfying the other requirements of this subchapter, a complete and legible set of fingerprints, on a form prescribed by the board, for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b)  The board may deny a license to an applicant who does not comply with the requirement of Subsection (a). Issuance of a license by the board is conditioned on the board obtaining the applicant's criminal history record information under this section.

(c)  The board by rule shall develop a system for obtaining criminal history record information for a person accepted for enrollment in a nursing educational program that prepares the person for [~~initial~~] licenas a vocational, registered, or advanced practice registered [~~or vocational~~] nurse by requiring the person to submit to the board a set of fingerprints that meets the requirements of Subsection (a). The board may develop a similar system for an applicant for enrollment in a nursing educational program. The board may require payment of a fee by a person who is required to submit a set of fingerprints under this subsection.

ARTICLE 17. TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

Sec. 411.0995.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ~~STATE~~TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS. (a) The ~~State~~Texas Board of Veterinary Medical Examiners 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 a license or certificate under the Veterinary Licensing Act, Chapter 801 of the Texas Occupations Code; ~~or~~

(2)  the holder of a license or certificate under that ~~chapter~~Act;

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

(4)  an employee or contractor after the check of the criminal history record information on that employee or contractor is completed.

(b)  Texas criminal history record information obtained by the ~~State~~Texas Board of Veterinary of Medical Examiners under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(c)  After an individual is licensed or certified, the Texas Board of Veterinary Medical Examiners, shall destroy the criminal history record information that relates to that individual. The Texas Board of Veterinary Medical Examiners shall destroy the criminal history record information that relates to:

(d)  The Texas Board of Veterinary Medical Examiners shall destroy criminal history record information that relates to an applicant who is not certified or employed, as applicable.

(e)  The Texas Board of Veterinary Medical Examiners is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Board of Veterinary Medical Examiners.

(g)  In accordance with Section 411.087 the Texas Board of Veterinary Medical Examiners may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 18. TEXAS DEPARTMENT OF INSURANCE

SECTION 18.01.  Section 411.106, Government Code, is amended to read as follows:

Sec. 411.106.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF INSURANCE. (a) The Texas Department of Insurance [~~for good cause shown~~] 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 a license, permit, certificate of authority, certificate of registration, or other authorization issued by the Texas Department [~~State Board~~] of Insurance to engage in an activity regulated under the Insurance Code; or

(2)  a corporate officer or director of an insurance company regulated by the Texas Department of Insurance.

(b)  Texas ~~C~~criminal history record information obtained by the Texas Department of Insurance under Subsection (a) may not be disclosed or released to any person except on court order, [~~or~~] with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection(d).

(c)  After the Texas Department of Insurance makes a determination as to the issuance of a license or certificate of authority to an applicant or as otherwise authorized by statute, the Texas Department of Insurance shall destroy [~~seal~~] the criminal history record information in its possession regarding the applicant ~~and shall deliver the information to the commissioner of insurance or the commissioner's designee, who shall maintain the information as provided by State Board of Insurance rule~~.

(d)  The Texas Department of Insurance is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Department of Insurance.

(e)  In accordance with Section 411.087, the Texas Department of Insurance may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(f)  The Texas Department of Insurance ~~may~~shall not disseminate criminal history record information obtained from the Federal Bureau of Investigation.

SECTION 17.02.  Section 411.107, Government Code, is amended to read as follows:

Sec. 411.107.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: RECEIVER. (a) In this section, "receiver" has the meaning assigned by Section 443.004~~Article 21.280~~, Insurance Code.

(b)  A receiver is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1)  is a creditor or claimant of the receivership estate; or

(2)  the receivership estate has a claim against [~~the receiver believes is necessary for the investigation of any matter relating to a receivership estate~~].

(c)  Texas criminal history record information obtained by a receiver under Subsection (b) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

(d)  A receiver shall~~may~~ destroy criminal history record information obtained by the receiver under Subsection (b) before termination of the receivership and the receiver's discharge [~~after the purpose for which the information was obtained is accomplished~~].

(e)   In accordance with Section 411.087, the receiver may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(f)  The receiver may not disseminate criminal history record information obtained from the Federal Bureau of Investigation.

SECTION 18.03.  Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.### to read as follows:

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE FIRE MARSHAL. (a) The state fire marshal is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a license or other authorization issued by the state fire marshal to engage in an activity regulated under the Insurance Code or the Occupations Code.

(b)  Texas criminal history record information obtained by the state fire marshal under Subsection (a) may not be disclosed or released to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection(d).

(c)  After the state fire marshal makes a determination as to the issuance of a license or other authorization to an applicant as provided by statute, the state fire marshal shall destroy the criminal history record information in its possession regarding the applicant.

(d)  The state fire marshal is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the state fire marshal.

(e)  In accordance with Section 411.087, the state fire marshal may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(f)  The state fire marshal ~~may~~ shall not disseminate criminal history record information obtained from the Federal Bureau of Investigation.

ARTICLE 19. TEXAS FUNERAL SERVICE COMMISSION

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: Texas Funeral Service Commission. (a) The Texas Funeral Service Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  a person who is:

(A)  an applicant for a license or certificate under Sections 651.259(e) and 651.302(d), Occupations Code;

(B)  the holder of a license or certificate under that Act;

(2)  an applicant for a license or a license holder under Chapter 651, Occupations Code;

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS FUNERAL SERVICE COMMISSION. (a) Texas Funeral Service Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  a person who is:

(A)  an applicant for a license or certificate under the Occupations Code, Subtitle L. Crematory Services, Funeral Directing, And Embalming (Chapter 651, Crematory Services, Funeral Directing, And Embalming);

(B)  the holder of a license or certificate under that Act;

(2)  an applicant for a license or a license holder under Subchapter D, Subchapter F, Subchapter G, Subchapter H, Subchapter I, Subchapter J, Subchapter K, and Subchapter N, Chapter 651, Occupations Code;

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

(A)  the Texas Funeral Service Commission

(4)  a person authorized to access vital records or the vital records electronic registration system under Chapter 191, Health and Safety Code, or a funeral director.

(b)  Criminal history record information obtained by the Texas Funeral Service Commission under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(c)  After an entity is licensed or certified, the Texas Funeral Service Commission shall destroy the criminal history record information that relates to that entity. The Texas Funeral Service Commission shall destroy the criminal history record information that relates to:

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

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

(d)  The Texas Funeral Service Commission shall destroy criminal history record information that relates to an applicant who is not certified or employed, as applicable.

(e)  The Texas Funeral Service Commission is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Funeral Service Commission.

(f)  The Texas Funeral Service Commission may not consider offenses described by Section 542.304, Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

(g)  Texas criminal history record information obtained by the Texas Funeral Service Commission under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(h)  After an entity is licensed or certified, the Texas Funeral Service Commission, shall destroy the criminal history record information that relates to that entity. The Texas Funeral Service Commission shall destroy the criminal history record information that relates to:

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

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

(i)  The Texas Funeral Service Commission shall destroy criminal history record information that relates to an applicant who is not certified or employed, as applicable.

(j)  The Texas Funeral Service Commission is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Funeral Service Commission>.

(k)  In accordance with Section 411.087, the Texas Funeral Service Commission shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(l)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 20. STATE BOARD FOR EDUCATOR CERTIFICATION AND TEXAS EDUCATION AGENCY

Sec. 411.090.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for Educator Certification is entitled to obtain from the department any criminal history record information maintained by the department about a person who has applied to the board for, or who currently holds, a certificate under Subchapter B, Chapter 21, Education Code.

(b)  Texas criminal history record information obtained by the board in the original form or any subsequent form:

(1)  may be used only for a purpose related to the issuance, denial, reprimand, suspension, revocation, or cancellation of a certificate issued by the board;

(2)  may not be released to any person except:

(A)  the person who is the subject of the information;

(B)  the Texas Education Agency;

(C)  a local or regional educational entity as provided by Section 411.097; or

(D)  by court order;

(3)  is not subject to disclosure as provided by Chapter 552; and

(4)  shall be destroyed by the board after the information is used for the authorized purposes.

(c)  The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department. Any record of the notification and any information contained in the notification is not subject to disclosure as provided by Chapter 552.

(d)  The State Board for Educator Certification is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Education Agency or State Board for Educator Certification.

(e)  In accordance with Section 411.087 the State Board for Educator Certification shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(f)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

Sec. 411.0901.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:

(1)  is employed or is an applicant for employment by the Texas Education Agency; or

(2[~~1~~])  is employed or is an applicant for employment by a school district or open-enrollment charter school;

(3)  is subject to placement on the Registry of Persons Not Eligible for Employment in Public Schools under Section 22.092, Subchapter C-1, Chapter 22, Texas Education Code;

(4 [~~2~~])  is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present; or

(5 [~~3~~])  is employed or is an applicant for employment by an entity that contracts or subcontracts with a school district, open-enrollment charter school, or shared services arrangement, if the applicant or employee has or will have continuing duties related to the contracted or subcontracted services, and has or will have direct contact with students; or ~~if~~

(6)  provides services as a tutor on behalf of a service provider that offers accelerated or supplemental instruction under Section 28.0211, Education Code if the tutor has or will have continuing duties related to the services provided and has or will have direct contact with students.

~~(A)  the employee or applicant person has or will have continuing duties relating to the contracted services provided; and~~

~~(B)  the employee or applicant person has or will have direct contact with students.~~

(b)  Texas criminal history record information obtained by the agency in the original form or any subsequent form:

(1)  may be used only for a purpose authorized by the Education Code;

(2)  may not be released to any person except:

(A)  the person who is the subject of the information;

(B)  the State Board for Educator Certification;

(C)  a local or regional educational entity as provided by Section 411.097; or

(D)  by court order;

(3)  is not subject to disclosure as provided by Chapter 552; and

(4)  shall be destroyed by the agency after the information is used for the authorized purposes.

(c)  The Texas Education Agency is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Education Agency or State Board for Educator Certification.

(d)  In accordance with Section 411.087, the Texas Education Agency shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(e)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

Sec. 411.097.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES. (a) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, shared services arrangement, or entity is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is:

(1)  an applicant for employment by the district, school, service center, or shared services arrangement;

(2)  an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district, school, service center, or shared services arrangement to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported; or

(3)  an employee of or applicant for employment by an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section 22.0834 ~~or 22.08341~~, Education Code~~.~~; or

(4)  an employee of or applicant for employment by a subcontractor of an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section 22.0834 ~~or 22.08341~~, Education Code; or

(5)  a tutor who provides services on behalf of a service provider that offers accelerated or supplemental instruction under Section 28.0211, Education Code.

(b)  A school district, charter school, private school, regional education service center, or education shared services arrangement is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer, student teacher, or employee of the district, school, service center, or shared services arrangement.

(c)  An open-enrollment charter school is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1)  is a member of the governing body of the school, as defined by Section 12.1012, Education Code; or

(2)  has agreed to serve as a member of the governing body of the school.

(d)  Texas criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement in the original form or any subsequent form:

(1)  may not be released to any person except:

(A)  the individual who is the subject of the information;

(B)  the Texas Education Agency;

(C)  the State Board for Educator Certification;

(D)  the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2); or

(E)  by court order;

(2)  is not subject to disclosure as provided by Chapter 552; and

(3)  shall be destroyed by the school district, charter school, private school, service center, commercial transportation company, or shared services arrangement on the earlier of:

(A)  the first anniversary of the date the information was originally obtained; or

(B)  the date the information is used for the authorized purpose.

(e)  If a regional education service center or commercial transportation company that receives criminal history record information from the department under this section requests the information by providing to the department a list, including the name, date of birth, and any other personal descriptive information required by the department for each person, through electronic means, magnetic tape, or disk, as specified by the department, the department may not charge the service center or commercial transportation company more than the lesser of:

(1)  the department's cost for providing the information; or

(2)  the amount prescribed by another law.

(f)  An employee of a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement may request from the employer a copy of any criminal history record information relating to that employee that the employer has obtained as provided by Subchapter C, Chapter 22, Education Code. The employer may charge a fee to an employee requesting a copy of the information in an amount not to exceed the actual cost of copying the requested criminal history record information.

(g)  A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Education Agency or State Board for Educator Certification.

(h)  In accordance with Section 411.087 a school district, charter school, regional education service center, commercial transportation company, or education shared services arrangement shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(i)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

411.XXXX  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: QUALIFIED SCHOOL CONTRACTORS

(a)  In this section:

(1)  "Qualified school contractor" is an entity that

(A)  contracts or subcontracts to provide services to a school district, charter school, or shared services arrangement; and

(B)  is determined eligible ~~authorized~~ by the department to obtain criminal history pursuant to the National Child Protection Act for an employee, applicant for employment, or volunteer of the qualified school contractor.

(b)  ~~Texas~~ Criminal history record information obtained by a qualified school contractor in the original form or any subsequent form:

(1)  may not be released to any person except:

(A)  to the individual who is the subject of the information;

~~(B)  or by court order;~~

(2)  is not subject to disclosure as provided by Chapter 552; and

(3)  shall be destroyed by qualified school contractor on the earlier of:

(A)  the first anniversary of the date the information was originally obtained; or

(B)  the date the information is used for the authorized purpose.

(c)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

(d)  A qualified school contractor may provide a fitness determination based on criminal history obtained under this section to a school district, charter school, or shared services arrangement.

(e)  The department in coordination with the Commissioner of Education may adopt rules necessary to implement this section.

Sec. 411.1405.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE AGENCIES; INFORMATION TECHNOLOGY EMPLOYEES. (a) In this section:

(1)  "Information resources" and "information resources technologies" have the meanings assigned by Section 2054.003.

(2)  "State agency" means a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section 61.003, Education Code.

(b)  To the extent consistent with Subsection (e), a state agency is entitled to obtain from the department the criminal history record information maintained by the department that relates to a person who:

(1)  is an employee, applicant for employment, contractor, subcontractor, or intern or other volunteer with the state agency or with a contractor or subcontractor for the state agency; and

(2)  has access to information resources or information resources technologies, other than a desktop computer or telephone station assigned to that person.

(c)  A state agency that obtains Texas criminal history record information under this section may not release or disclose the information or any documents or other records derived from the information except:

(1)  by court order;

(2)  with the consent of the person who is the subject of the information; or

(3)  to the affected contractor or subcontractor, unless the information was obtained by the department from the Federal Bureau of Investigation.

(d)  A state agency and the affected contractor or subcontractor shall destroy criminal history record information obtained under this section that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

(e)  A state agency may not obtain criminal history record information under this section unless the state agency first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. The attorney general shall review the policies and procedures for compliance with due process and other legal requirements before adoption by the state agency. The attorney general may charge the state agency a fee to cover the cost of the review. The policies and procedures adopted under this subsection must provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on factors that include:

(1)  the specific duties of the position;

(2)  the number of offenses committed by the individual;

(3)  the nature and seriousness of each offense;

(4)  the length of time between the offense and the employment decision;

(5)  the efforts by the individual at rehabilitation; and

(6)  the accuracy of the information on the individual's employment application.

(f)  A criminal history record information provision in another law that is more specific to a state agency, including Section 411.089, prevails over this section to the extent of any conflict.

(g)  A state agency is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding.

(h)  In accordance with Section 411.087, a state agency shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(i)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

Sec. 22.0834.  CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTAIN CONTRACT EMPLOYEES. (a) Except as provided by Subsection (a-1), this subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who ~~on or after January 1, 2008,~~ is offered employment by an entity or a subcontractor of an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

(1)  the employee or applicant has or will have continuing duties related to the contracted services; and

(2)  the employee or applicant has or will have direct contact with students.

(a-1)  This section does not apply to an employee or applicant of a public works contractor if: ~~contracting entity, subcontracting entity, or other person subject to Section 22.08341.~~

(1)  the public work does not involve the construction, alteration, or repair of an instructional facility as defined in 46.001;

(2)  for public work that involves construction of a new instructional facility, the person's duties related to the contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or

(3)  for a public work that involves an existing instructional facility:

(A)  the public work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and

(B)  the contracting entity adopts a policy prohibiting employees, including subcontracting entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.

(b)  If the contracting entity is a qualified school contractor as defined under TX Gov. Code 411.XXXX, a ~~A~~ person to whom Subsection (a) applies must submit to a national criminal history record information review ~~under this section~~ by the qualified school contractor before being employed or serving in a capacity described by that subsection.

(b-1)  If the contracting entity or subcontracting entity is not a qualified school contractor, a person to whom Subsection (a) applies must submit to a national criminal history record information review by the school district, charter school, regional education service center, commercial transportation company, or education shared services arrangement.

(c)  Before or immediately after employing or securing the services of a person to whom Subsection (a) applies, the ~~entity~~ qualified school contractor or ~~contracting with a~~ school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs. The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(d)  ~~An entity contracting with~~ A qualified school contractor or a school district, open-enrollment charter school, or shared services arrangement shall obtain all criminal history record information that relates to a person to whom Subsection (a) applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code. ~~The entity shall certify to the school district that the entity has received all criminal history record information relating to a person to whom Subsection (a) applies.~~

(d-1)  A qualified school contractor ~~contracting entity~~ shall require that any of its subcontracting entities obtain all criminal history record information that relates to an employee to whom Subsection (a) applies if the subcontracting entity is also a qualified school contractor.

(d-2)  A qualified school contractor shall require that any of its subcontracting entities that are not qualified school contractors comply with Subsection (b-1) as it relates to an employee to whom Subsection (a) applies.

(e)  The requirements of subsection (b),(d-1), and (d-2) do not apply to a qualified school contractor if ~~A~~ a school district, open-enrollment charter school, or shared services arrangement ~~may~~ obtains the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f)  In the event of an emergency, a school district may allow a person to whom Subsection (a) ~~or (g)~~ applies to enter school district property if the person is accompanied by a district employee. A school district may adopt rules regarding an emergency situation under this subsection.

~~(g)  An entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Subsection (b) if:~~

~~(1)  the employee has continuing duties related to the contracted services; and~~

~~(2)  the employee has direct contact with students.~~

(h)  A school district, open-enrollment charter school, or shared services arrangement, or qualified school contractor may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom this section ~~Subsection (g)~~ applies.

~~(i)  An entity shall certify to a school district that it has received all criminal history record information required by Subsection (g).~~

~~(j)  The commissioner may adopt rules as necessary to implement this section.~~

~~(k)  The requirements of this section apply to an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement and any subcontractor of the entity.~~

(l)  ~~A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to an employee to whom Subsection (a) applies.~~ If a contracting or subcontracting entity determines that Subsection (a) does not apply to an employee, the contracting or subcontracting entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Subsection (a) did not apply to the employee continue to exist throughout the time that the contracted services are provided.

~~(m)  A contracting entity complies with the requirements of this section if the contracting entity obtains a written statement from each subcontracting entity certifying that the subcontracting entity has obtained the required criminal history record information for employees of the subcontracting entity and the subcontracting entity has obtained certification from each of the subcontracting entity's subcontractors.~~

~~(n)  A subcontracting entity must certify to the school district, open-enrollment charter school, or shared services arrangement and the contracting entity that the subcontracting entity has obtained all criminal history record information that relates to an employee to whom Subsection (a) applies and has obtained similar written certifications from the subcontracting entity's subcontractors.~~

(o)  A school district, charter school, regional education service center, commercial transportation company, or education shared services arrangement, qualified school contractor, contracting or subcontracting entity may not permit an employee to whom Subsection (a) applies to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Section 22.085(a).

(p)  A qualified school contractor shall certify to the school district that the entity has received all criminal history record information relating to a person to whom Subsection (a) applies.

(~~p~~ q) In this section:

(1)  "Contracting entity" means an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement to provide services to the school district, open-enrollment charter school, or shared services arrangement.

(2)  "Subcontracting entity" means an entity that contracts with another entity that is not a school district, open-enrollment charter school, or shared services arrangement to provide services to a school district, open-enrollment charter school, or shared services arrangement.

(3)  "Qualified school contractor" has the same meaning as defined in Tx Gov Code 411.XXXX

(4)  "Public works contractor" means an entity that contracts directly or subcontracts with an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services to the school district, open-enrollment charter school, or shared services arrangement.

Sec. 22.08341  REPEALED

~~Sec. 22.08341.  CRIMINAL HISTORY RECORD INFORMATION REVIEW BY CERTAIN PUBLIC WORKS CONTRACTORS. (a) In this section:~~

~~(1)  "Contracting entity" means an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement to provide engineering, architectural, or construction services to the district, school, or arrangement.~~

~~(2)  "Instructional facility" has the meaning assigned by Section 46.001.~~

~~(3)  "Subcontracting entity" means an entity that contracts with another entity that is not a school district, open-enrollment charter school, or shared services arrangement to provide engineering, architectural, or construction services to a school district, open-enrollment charter school, or shared services arrangement.~~

~~(b)  This subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who is employed by a contracting or subcontracting entity on a project to design, construct, alter, or repair a public work if the person has or will have:~~

~~(1)  continuing duties related to the contracted services; and~~

~~(2)  the opportunity for direct contact with students in connection with the person's continuing duties.~~

~~(c)  For purposes of Subsection (b), a person does not have the opportunity for direct contact with students if:~~

~~(1)  the public work does not involve the construction, alteration, or repair of an instructional facility;~~

~~(2)  for a public work that involves construction of a new instructional facility, the person's duties related to the contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or~~

~~(3)  for a public work that involves an existing instructional facility:~~

~~(A)  the public work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and~~

~~(B)  the contracting entity adopts a policy prohibiting employees, including subcontracting entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.~~

~~(d)  A contracting entity or subcontracting entity may not permit an employee to whom Subsection (b) applies to provide services at an instructional facility if the employee, during the preceding 30 years, was convicted of any of the following offenses and the victim was under 18 years of age or was enrolled in a public school:~~

~~(1)  a felony offense under Title 5, Penal Code;~~

~~(2)  an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or~~

~~(3)  an offense under the laws of another state or federal law that is equivalent to an offense under Subdivision (1) or (2).~~

~~(e)  For a person to whom Subsection (b) applies, the contracting entity or subcontracting entity that employs the person shall:~~

~~(1)  send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs;~~

~~(2)  obtain all criminal history record information that relates to the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code; and~~

~~(3)  certify to the school district, open-enrollment charter school, shared services arrangement, or contracting entity, as applicable, that the contracting entity or subcontracting entity that employs the person has received all criminal history record information relating to the person.~~

~~(f)  A contracting entity shall certify to the school district, open-enrollment charter school, or shared services arrangement, as applicable, that the contracting entity has obtained written certifications from any subcontracting entity that the subcontracting entity has complied with Subsection (e) as it relates to the subcontracting entity's employees.~~

~~(g)  On receipt of information described by Subsection (e)(1), the department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.~~

~~(h)  A school district, open-enrollment charter school, or shared services arrangement may directly obtain the criminal history record information of a person to whom Subsection (b) applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.~~

~~(i)  If a contracting entity or subcontracting entity determines that Subsection (b) does not apply to an employee, the contracting or subcontracting entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Subsection (b) does not apply to the employee continue to exist throughout the time that the contracted services are provided.~~

~~(j)  In the event of an emergency, a school district, open-enrollment charter school, or shared services arrangement may allow a person to whom Subsection (b) applies to enter an instructional facility if the person is accompanied by an employee of the district, school, or arrangement. A school district, open-enrollment charter school, or shared services arrangement may adopt a policy regarding an emergency for purposes of this subsection.~~

~~(k)  The commissioner may adopt rules necessary to implement this section.~~

~~Added by Acts 2017, 85th Leg., R.S., Ch. 1070 (H.B. 3270), Sec. 2, eff. September 1, 2017.~~

Sec. 22.0835.  ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION AUTHORITIES. (a) A school district, open-enrollment charter school, or shared services arrangement shall obtain from the department and may obtain from any other law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to:

(1)  a person participating in an internship consisting of student teaching to receive a teaching certificate; or

(2)  a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the district, school, or shared services arrangement.

(b)  A private school or regional education service center may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who volunteers or has indicated, in writing, an intention to serve as a volunteer with the school or service center.

(c)  A person to whom Subsection (a) or (b) applies must provide to the school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government.

(d)  A person to whom Subsection (a) applies may not perform any student teaching or volunteer duties until all requirements under Subsections (a) and (c) have been satisfied.

(e)  Subsections (a) and (c) do not apply to a person who volunteers or is applying to volunteer with a school district, open-enrollment charter school, or shared services arrangement if the person:

(1)  is the parent, guardian, or grandparent of a child who is enrolled in the district or school for which the person volunteers or is applying to volunteer;

(2)  will be accompanied by a school district employee while on a school campus; or

(3)  is volunteering for a single event on the school campus.

(f)  A school district, open-enrollment charter school, or shared services arrangement may obtain from the department or any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (e) applies.

(g)  A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may require a student teacher, volunteer, or volunteer applicant to pay any costs related to obtaining criminal history record information under this section.

Sec. 22.085.  EMPLOYEES AND APPLICANTS CONVICTED OF OR PLACED ON DEFERRED ADJUDICATION COMMUNITY SUPERVISION FOR CERTAIN OFFENSES. (a) A school district, open-enrollment charter school, or shared services arrangement shall discharge or refuse to hire an employee or applicant for employment if the district, school, or shared services arrangement obtains information through a criminal history record information review that the employee or applicant has been:

(1)  convicted of or placed on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(2)  convicted of:

(A)  a felony offense under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or

(B)  an offense under the laws of another state or federal law that is equivalent to an offense under Subdivision (1) or Paragraph (A).

(b)  Subsection (a) does not apply if the employee or applicant for employment committed an offense under Title 5, Penal Code and:

(1)  the date of the offense is more than 30 years before:

(A)  the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007, in the case of a person employed by a school district, open-enrollment charter school, or shared services arrangement as of that date; or

(B)  the date the person's employment will begin, in the case of a person applying for employment with a school district, open-enrollment charter school, or shared services arrangement after the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007; and

(2)  the employee or applicant for employment satisfied all terms of the court order entered on conviction.

(c)  A school district, open-enrollment charter school, or shared services arrangement may not allow a person who is an employee of or applicant for employment by a qualified school contractor or an entity that contracts with the district, school, or shared services arrangement to serve at the district or school or for the shared services arrangement if the district, school, or shared services arrangement obtains information described by Subsection (a) through a criminal history record information review concerning the employee or applicant. A school district, open-enrollment charter school, or shared services arrangement must ensure that an entity that the district, school, or shared services arrangement contracts with for services has obtained all criminal history record information as required by Section 22.0834 ~~or 22.08341.~~

(d)  A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the State Board for Educator Certification or the district, school, service center, or shared services arrangement. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

(e)  The State Board for Educator Certification may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant for employment if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been:

(1)  convicted of or placed on deferred adjudication community supervision for an offense described by Subsection (a)(1); or

(2)  convicted of an offense described by Subsection (a)(2).

(f)  Each school year, the superintendent of a school district or chief operating officer of an open-enrollment charter school shall certify to the commissioner that the district or school has complied with this section.

ARTICLE 21. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. (a) The Texas Commission on Environmental Quality is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  a person who:

(A)  is an applicant for a license or registration under:

(i)  Health and Safety Code Chapters 341, 361, and 366;

(ii)  Occupations Code Chapter 1903; or

(iii)  Texas Water Code Chapters 37 and 26;

(B)  is the holder of a license or registration under the statutes listed in 411.###(1)(A); or

(C)  requests a determination of eligibility for a license or registration from the agency under the statutes listed in 411.###(1)(A).

(b)  Texas criminal history record information obtained by the Texas Commission on Environmental Quality under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person that is the subject of the criminal history record information, or as provided by Subsection (d).

(c)  After completion of the criminal history review or proceeding for a person, for the purposes of a licensure or registration, the Texas Commission on Environmental Quality shall destroy the criminal history record information that relates to that person.

(d)  The Texas Commission on Environmental Quality is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in an administrative proceeding conducted by:

(i)  the Texas Commission on Environmental Quality; or

(ii)  the State Office of Administrative Hearings.

(e)  In accordance with Section 411.087, the Texas Commission on Environmental Quality may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(f)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 22. TEXAS RACING COMMISSION

SECTION 1.  Section 411.096, Government Code, is amended to read as follows:

Sec. 411.096.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS RACING COMMISSION. (a) The Texas Racing Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to [~~a person who is~~]:

(1)  a person who is:

(A)  an applicant for or the holder of a license under Chapter 2025 of the Texas Occupations Code; or

(B)  a controlling person, as defined in Chapter 2025 of the Texas Occupations Code, of an entity described therein;

(C)  an owner or manager of an applicant for any license promulgated under Chapter 2025 of the Texas Occupations Code license under (A); or

(D)  the holder of a license or certificate under that Act; or

(2)  a person who:

(A)  is an applicant for or the holder of a license under Chapter 2025 of the Texas Occupations Code; or

(B)  has an interest described under Section Chapter 2025 of the Texas Occupations Code, in an entity described therein.

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

(A)  The Texas Racing Commissions defined by Texas Occupations Code 2022; or

(B)  employment within the Texas Racing industry.

(4)  an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with the Texas Racing Commission that monitors racing in Texas as described by Texas Occupations Code Chapter 2022.

(b)  Texas criminal history record information obtained by the Texas Racing Commission under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (c).

(c)  After an entity is licensed or certified, the Texas Racing Commission shall destroy the criminal history record information that relates to that entity. The Texas Racing Commission shall destroy the criminal history record information that relates to:

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

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

(d)  The Texas Racing Commission shall destroy criminal history record information that relates to an applicant who is not certified or employed, as applicable.

(e)  The Texas Racing Commission is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Racing Commission or the State Office of Administrative Hearings, as applicable.

(f)  In accordance with Section 411.087, the Texas Racing Commission shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(g)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

SECTION 2.  Section 2025.251, Occupations Code, is amended to read as follows:

Sec. 2025.251.  OCCUPATIONAL LICENSE REQUIRED. (a) Except as provided by this section, a person, other than as a spectator or as a person placing a wager, may not participate in ~~racing with~~ pari-mutuel racing activities or wagering without first obtaining a license from the commission. A person may not engage in any occupation for which commission rules require a license under this subtitle without first obtaining a license from the commission.

(b)  The commission ~~by rule~~ shall ~~categorize the occupations of racetrack employees and~~ determine the occupations that afford ~~the employee~~ an opportunity to influence racing with pari-mutuel wagering, including individuals who: ~~The rules must require an employee to be licensed under this subtitle if the employee~~.

(1)  work~~s~~ in an occupation as an employee, contractor, or volunteer, ~~determined by the commission~~ to afford the individual ~~the employee~~ an opportunity to influence racing with pari-mutuel wagering;

or (2) will likely have significant access to the backside of a racetrack or to restricted areas of the frontside of a racetrack

(3)  Notwithstanding section (b) above, the following individuals require a criminal history background check before an occupational license is issued: commissioners, racing commission employees, racing association employees, owners or employees of race horses.

ARTICLE 23. TEXAS STATE BOARD OF DENTAL EXAMINERS

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD OF DENTAL EXAMINERS. (a) The State Board of Dental Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1)  is an applicant for a license, certificate, registration, permit, or other authorization under Title 3, Subtitle D, Occupations Code (Dental Practice Act);

(2)  is the holder of a license, certificate, registration, permit, or other authorization under that Act;

(3)  requests a determination of eligibility for a license, certificate, registration, permit, or other authorization from the State Board of Dental Examiners; or

(4)  is an applicant for employment at or current employee of the State Board of Dental Examiners.

(b)  Texas ~~C~~criminal history record information obtained by the State Board of Dental Examiners under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c)  The State Board of Dental Examiners shall destroy criminal history record information obtained under this section after a final determination is made in the matter for which the information was obtained.

(d)  The State Board of Dental Examiners is not prohibited from disclosing Texas criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the State Board of Dental Examiners or State Office of Administrative Hearings.

(e)  In accordance with Section 411.087, the State Board of Dental Examiners shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(f)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 24. CONSUMER CREDIT COMMISSIONER

SECTION 24.01.  Section 411.095, Government Code, is amended to read as follows:

Sec. 411.095.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. (a) The consumer credit commissioner 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 or holder of a license or registration under Chapter 180, 342, 347, 348, 351, 353, 371, 393, or 394, Finance Code;

(2)  an officer, director, owner, or employee of the entity or another person having a substantial relationship with the entity under Chapter 180, 342, 347, 348, 351, 353, 371, 393, or 394, Finance Code;

(3)  an employee of or volunteer with the Office of Consumer Credit Commissioner;

(4) [~~(3)~~]  an applicant for employment with the Office of Consumer Credit Commissioner; or

(5) [~~(4)~~]  a contractor or subcontractor of the Office of Consumer Credit Commissioner.

(b)  Texas criminal history record information obtained by the Office of Consumer Credit Commissioner under Subsection (a) may not be released or disclosed to any person except: [~~The consumer credit commissioner may not release or disclose criminal history record information obtained under this section unless:~~

[~~(1)  the information is obtained from a fingerprint-based search; and~~

[~~(2)  the information is released or disclosed:~~

(1) [~~(A)~~]  on court order;

(2) [~~(B)~~]  to the person who is the subject of the criminal history record information; [~~or~~]

(3) [~~(C)~~]  with the consent of the person who is the subject of the criminal history record information; or

(4)  in a hearing where the Office of Consumer Credit Commissioner is a party.

(c)  In accordance with Section 411.087, the consumer credit commissioner may obtain criminal history record information from the Federal Bureau of Investigation identification division regarding a person described by subsection (a).

(d)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated except to the person who is the subject of the criminal history record information.

SECTION 24.02.  Section 14.151(a), Finance Code, is amended to read as follows:

(a)  The commissioner or an assistant commissioner, examiner, or other employee of the office shall obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency relating to a person described by Section 411.095(a)(1) or (2) [~~411.095(a)(1)~~], Government Code.

ARTICLE 25. TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

SECTION 25.01.  Section 411.109, Government Code, is amended by amending Subsection (d) and adding Subsections (f), (g), and (h) to read as follows:

(d)  Texas Criminal history record information obtained by the comptroller under Subsections (a), (b), and (c) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsections [~~Subsection~~] (e) or (f).

(f)  The comptroller is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the comptroller.

(g)  In accordance with Section 411.087, the comptroller may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 26. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS: MANUFACTURED HOUSING DIVISION

Tex. Occ. Code 1201.1031(f) the department is entitled to obtain criminal history record information maintained by the Department of Public Safety that relates to:

(1)  a person who is:

(A)  an applicant for a license under Chapter 1201 of the Texas Occupations Code;

(B)  an owner, officer, related person or manager of an applicant for manufacturer, retailer, broker, installer, or salesperson license under (A); or

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

(2)  an applicant for a license or a license holder under Chapter 1201 of the Texas Occupations Code;

(g)  Texas criminal history record information obtained by the Manufactured Housing Division under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(h)  Texas criminal history record information obtained by the department under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(i)  The department shall destroy the criminal history record information that relates to an applicant for licensure after that applicant is licensed or, for an applicant who is not licensed, after the check of the criminal history record information on that applicant is completed;

(j)  the department is not prohibited from disclosing criminal history record information obtained under Subsection (f) in a criminal proceeding or in a hearing conducted by the department.

(k)  In accordance with Section 411.087 and Tex. Occ. Code § 1201.1031, the department shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(l)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: The Manufactured Housing Division. (a) The Manufactured Housing Division is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  a person who is:

(A)  an applicant for a license under Chapter 1201 of the Texas Occupations Code;

(B)  an owner, officer, related person or manager of an applicant for manufacturer, retailer, broker, installer, or salesperson license under (A); or

(C)  the holder of a license under that Act;

(2)  an applicant for a license or a license holder under Chapter 1201 of the Texas Occupations Code;

(b)  Texas criminal history record information obtained by the Manufactured Housing Division under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(c)  After an entity is licensed, the Manufactured Housing Division, shall destroy the criminal history record information that relates to that entity. The Manufactured Housing Division shall destroy the criminal history record information that relates to:

(1)  an applicant for licensure after that applicant is licensed or, for an applicant who is not licensed, after the check of the criminal history record information on that applicant is completed; or

(2)  a licensee after the check of the criminal history record information on that licensee is completed.

(d)  The Manufactured Housing Division shall destroy criminal history record information that relates to an applicant who is not licensed, as applicable.

(e)  The Manufactured Housing Division is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Manufactured Housing Division.

(g)  In accordance with Section 411.087 or Chapter 1201 of the Texas Occupations Code, the Manufactured Housing Division shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 27. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 27.01.  Section 411.093, Government Code, is amended to read as follows:

Sec. 411.093.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF LICENSING AND REGULATION. (a) The Texas Department of Licensing and Regulation 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 or the holder of:

(A)  a driver education instructor license under Chapter 1001, Education Code; [~~a license, certificate, registration, title, or permit issued by the department~~]; [~~or~~]

(B)  a license under Chapter 202, Occupations Code;

(C)  a license under Chapter 401, Occupations Code;

(D)  a license under Chapter 402, Occupations Code;

(2)  a person who is: [~~the holder of a license, certificate, registration, title, or permit issued by the department~~]

(A)  an applicant for or the holder of a license under Chapter 91, Labor Code; or

(B)  a controlling person, as defined in Chapter 91, Labor Code, of an entity described in Paragraph (A); or

(3)  a person who:

(A)  is an applicant for or the holder of a license under Chapter 455, Occupations Code; or

(B)  has an interest described under Section 455.1525(e), Occupations Code, in an entity described in Paragraph (A).

(b)  Criminal history record information obtained by the Texas Department of Licensing and Regulation under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (c).

(c)  The Texas Department of Licensing and Regulation is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Department of Licensing and Regulation or the State Office of Administrative Hearings, as applicable.

(d)  In accordance with Section 411.087, the Texas Department of Licensing and Regulation shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(e)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

SECTION 2.  Section 411.122(d), Government Code, as amended by Chapter 768 (H.B. 1501), Acts of the 86th Legislature, Regular Session, 2019, is amended to read as follows:

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

(1)  Texas Appraiser Licensing and Certification Board;

(2)  Texas Board of Architectural Examiners;

(3)  Texas Board of Chiropractic Examiners;

(4)  State Board of Dental Examiners;

(5)  Texas Board of Professional Engineers;

(6)  Texas Funeral Service Commission;

(7)  Texas Board of Professional Geoscientists;

(8)  Health and Human Services Commission, except as provided by Section 411.110, and agencies attached to the commission;

(9)  Texas Board of Professional Land Surveying;

(10)  Texas Department of Licensing and Regulation[~~, except as provided by Section 411.093~~];

(11)  Texas Commission on Environmental Quality;

(12)  Texas Board of Occupational Therapy Examiners;

(13)  Texas Optometry Board;

(14)  Texas State Board of Pharmacy;

(15)  Texas Board of Physical Therapy Examiners;

(16)  Texas State Board of Plumbing Examiners;

(17)  Texas Behavioral Health Executive Council;

(18)  Texas Real Estate Commission;

(19)  Texas Department of Transportation;

(20)  State Board of Veterinary Medical Examiners;

(21)  Texas Department of Housing and Community Affairs;

(22)  secretary of state;

(23)  state fire marshal;

(24)  Texas Education Agency;

(25)  Department of Agriculture; and

(26)  Texas Department of Motor Vehicles.

SECTION 3.  Section 411.122(d), Government Code, as amended by Chapter 1232 (H.B. 1523), Acts of the 86th Legislature, Regular Session, 2019, is amended to read as follows:

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

(1)  Texas Appraiser Licensing and Certification Board;

(2)  Texas Board of Architectural Examiners;

(3)  Texas Board of Chiropractic Examiners;

(4)  State Board of Dental Examiners;

(5)  Texas Board of Professional Engineers and Land Surveyors;

(6)  Texas Funeral Service Commission;

(7)  Texas Board of Professional Geoscientists;

(8)  Health and Human Services Commission, except as provided by Section 411.110, and agencies attached to the commission, including:

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

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

(C)  Texas State Board of Social Worker Examiners;

(9)  Texas Department of Licensing and Regulation[~~, except as provided by Section 411.093~~];

(10)  Texas Commission on Environmental Quality;

(11)  Texas Board of Occupational Therapy Examiners;

(12)  Texas Optometry Board;

(13)  Texas State Board of Pharmacy;

(14)  Texas Board of Physical Therapy Examiners;

(15)  Texas State Board of Plumbing Examiners;

(16)  Texas State Board of Examiners of Psychologists;

(17)  Texas Real Estate Commission;

(18)  Texas Department of Transportation;

(19)  State Board of Veterinary Medical Examiners;

(20)  Texas Department of Housing and Community Affairs;

(21)  secretary of state;

(22)  state fire marshal;

(23)  Texas Education Agency;

(24)  Department of Agriculture; and

(25)  Texas Department of Motor Vehicles.

SECTION 4.  Section 411.122(d), Government Code, as amended by Chapter 684 (S.B. 2200), Acts of the 86th Legislature, Regular Session, 2019, is amended to read as follows:

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

(1)  Texas Appraiser Licensing and Certification Board;

(2)  Texas Board of Architectural Examiners;

(3)  Texas Board of Chiropractic Examiners;

(4)  State Board of Dental Examiners;

(5)  Texas Board of Professional Engineers;

(6)  Texas Funeral Service Commission;

(7)  Texas Board of Professional Geoscientists;

(8)  Health and Human Services Commission and the Department of State Health Services, except as provided by Section 411.110, and agencies attached to that commission, including:

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

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

(C)  Texas State Board of Social Worker Examiners;

(9)  Texas Board of Professional Land Surveying;

(10)  Texas Department of Licensing and Regulation[~~, except as provided by Section 411.093~~];

(11)  Texas Commission on Environmental Quality;

(12)  Texas Board of Occupational Therapy Examiners;

(13)  Texas Optometry Board;

(14)  Texas State Board of Pharmacy;

(15)  Texas Board of Physical Therapy Examiners;

(16)  Texas State Board of Plumbing Examiners;

(17)  Texas State Board of Examiners of Psychologists;

(18)  Texas Real Estate Commission;

(19)  Texas Department of Transportation;

(20)  State Board of Veterinary Medical Examiners;

(21)  Texas Department of Housing and Community Affairs;

(22)  secretary of state;

(23)  state fire marshal;

(24)  Texas Education Agency;

(25)  Department of Agriculture; and

(26)  Texas Department of Motor Vehicles.

ARTICLE 28. TEXAS LOTTERY COMMISSION

Sec. 411.108.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS LOTTERY COMMISSION. (a) The Texas Lottery Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who, under Chapter 466, is:

(1)  a sales agent or an applicant for a sales agent license;

(2)  a person required to be named in a license application;

(3)  a lottery operator or prospective lottery operator;

(4)  an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(5)  a person who manufactures or distributes lottery equipment or supplies or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6)  a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission, if the amount of the bid or proposal exceeds $500;

(7)  an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8)  a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission;

(9)  if a person described in Subdivisions (1) through (8) of this section is not an individual, an individual who:

(A)  is an officer or director of the person;

(B)  holds more than 10 percent of the stock in the person;

(C)  holds an equitable interest greater than 10 percent in the person;

(D)  is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E)  is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;

(F)  shares or will share in the profits, other than stock dividends, of the person;

(G)  participates in managing the affairs of the person; or

(H)  is an employee of the person who is or will be involved in:

(i)  selling tickets; or

(ii)  handling money from the sale of tickets;

(10)  the executive director or a prospective executive director of the commission;

(11)  an employee or prospective employee of the commission; or

(12)  a sales agent whose license is renewed under Section 466.158.

(a-1)  The Texas Lottery Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person licensed under Chapter 2001, Occupations Code, or described by Section 2001.3025, Occupations Code.

(b)  Texas Criminal history record information obtained by the commission under Subsection (a) or (a-1) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e~~c~~).

(c)  After an entity is licensed or certified, the commission shall destroy the criminal history record information that relates to that entity. The commission shall destroy the criminal history record information that relates to:

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

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

(d)  The Texas Lottery Commission shall destroy criminal history record information that relates to an applicant who is not certified or employed, as applicable.

(e)  The Texas Lottery Commission is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the State Office of Administrative Hearings~~Texas Lottery Commission~~.

(g)  In accordance with Government Code Sections 411.087, 466.201, and 467.036(b), and Occupations Code Section 2001.3025, the Texas Lottery Commission shall obtain criminal history record information from the Federal Bureau of Investigation identification division.

(h)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

~~(c)  The commission is not prohibited from disclosing to the person who is the subject of the criminal history record information the dates and places of arrests, offenses, and dispositions contained in the criminal history record information.~~

ARTICLE 29. TEXAS MEDICAL BOARD

Sec. 411.###.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS MEDICAL BOARD. (a) The Texas Medical Board is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1)  a person who is:

(A)  an applicant for or holder of a license to practice medicine;

(B)  an applicant for or holder of a license to practice as a physician assistant;

(C)  an applicant for or holder of a license to practice as an acupuncturist;

(D)  an applicant for or holder of a certificate to practice as an acudetox specialist;

(E)  an applicant for or holder of a license to practice as a surgical assistant;

(F)  an applicant for or holder of a general certificate to perform radiologic procedures, limited certificate to perform radiologic procedures only on specific parts of the body, or radiologist assistant certificate;;

(G)  an applicant for or holder of a placement on the registry of non-certified technicians;

(H)  an employee of an applicant for a hardship exemption;

(I)  an applicant for or holder of a license to practice as a medical physicist;

(J)  an applicant for or holder of a license to practice as a perfusionist;

(K)  an applicant for or holder of a license to practice as a respiratory care practitioner; and

(L)  an applicant for or holder of a pain management clinic certificate.

(b)  Texas criminal history record information obtained by the Texas Medical Board under Subsection (a) may not be released or disclosed to any person, except as provided by subsection (c).

(c)  The Texas Medical Board is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a hearing conducted by the Medical Board or its advisory boards.

(d)  In accordance with Section 411.087, the Texas Medical Board may obtain criminal history record information from the Federal Bureau of Investigation identification division.

(e)  Criminal history record information obtained by the Federal Bureau of Investigation shall not be disseminated.

ARTICLE 30. JUDICIAL BRANCH CERTIFICATION COMMISSION

SECTION 30.01.  Chapter 1104, Estates Code, is amended to read as follows:

Sec. 1104.402.  COURT CLERK'S DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION; AUTHORITY TO CHARGE FEE. (a) Except as provided by Section [~~1104.403,~~] 1104.404, or 1104.406(a), the clerk of the county having venue of the proceeding for the appointment of a guardian shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to:

(1)  a private professional guardian;

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

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

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

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

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

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

(5)  any other person proposed to serve as a guardian under this title, including a proposed temporary guardian and a proposed successor guardian, other than an attorney.

(b)  The clerk may charge a $10 fee to recover the costs of obtaining criminal history record information under Subsection (a).

(c)  A clerk is liable to those damaged if damage or loss results to a guardianship or ward because of the neglect or failure of the clerk to obtain criminal history record information as required by Subsection (a).

SECTION 30.02.  Chapter 1104, Estates Code, is amended to read as follows:

Sec. 1104.404.  EXCEPTION FOR INFORMATION CONCERNING CERTAIN PERSONS. (a) The clerk described by Section 1104.402 is not required to obtain criminal history record information from the Department of Public Safety for a person if the Judicial Branch Certification Commission conducted a criminal history check on the person under Section 155.203 and Section 155.207[ ~~Chapter 155~~], Government Code. However, the clerk shall obtain criminal history record information from the Federal Bureau of Investigation identification division relating to each person described in Section 1104.402 regardless of whether the Judicial Branch Certification Commission obtained information on such a person.

(b)  The commission [~~board~~] shall provide to the clerk [~~at the court's request~~] the criminal history record information that was obtained from the Department of Public Safety[ ~~or the Federal Bureau of Investigation~~]. The commission is prohibited from disseminating criminal history record information that was obtained from the Federal Bureau of Investigation pursuant to Section 411.1408, Government Code, for purposes of determining whether an applicant is ineligible for certification as a guardian.

SECTION 30.03.  Chapter 1104, Estates Code, is amended to read as follows:

Sec. 1104.405.  INFORMATION FOR EXCLUSIVE USE OF COURT. (a) Criminal history record information obtained or provided under Section 1104.402, [~~1104.403,~~ ]or 1104.404 is privileged and confidential and is for the exclusive use of the court. The criminal history record information may not be released or otherwise disclosed to any person or agency except on court order [~~or consent of the person being investigated~~]. The court may use the criminal history record information only in order to determine whether to:

(1)  appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Health and Human Services Commission; or

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

(b)  The county clerk may destroy the criminal history record information after the information is used for the purposes authorized by this subchapter.

SECTION 30.04.  Chapter 152, Government Code, is amended to read as follows:

Sec. 152.203.  RULES ON INELIGIBILITY. The supreme court shall by order adopt rules on applicants' ineligibility for certification, registration, or licensing under this subtitle based on the applicant's[~~person's~~] criminal history or other information that indicates the applicant[~~person~~] lacks the honesty, trustworthiness, or integrity to hold the certification, registration, or license. The commission shall, in accordance with this Section and rules adopted by order of the supreme court, obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division on each applicant for certification, registration, or licensing under this subtitle to be used solely for the determination of each applicant's ineligibility pursuant to rules adopted by supreme court order under this Section. The commission may not use criminal history record information obtained from the Federal Bureau of Investigation identification division under ~~the~~ this Section for any other purpose. The commission may not transfer criminal history record information obtained from the Federal Bureau of Investigation identification division under this Section to any other state agency, entity, or person, other than the person who is the subject of the criminal history record information. The commission shall dispose of criminal history record information immediately after each determination of ineligibility is made.

SECTION 30.05.  Chapter 155, Government Code, is amended to read as follows:

Sec. 155.205.  DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION. (a) In accordance with the rules adopted by the supreme court under Section 155.203, the commission shall obtain-criminal history record information that is maintained by the Department of Public Safety. The clerk shall obtain criminal history record information from [~~or~~] the Federal Bureau of Investigation identification division relating to an individual seeking appointment as a guardian or temporary guardian in accordance with Subsection (b).

(b)  The clerk ~~commission~~ shall obtain[~~:~~

~~(1)~~]  fingerprint-based criminal history record information of a proposed guardian if:

(1)[~~(A)~~]  the liquid assets of the estate of a ward exceed $50,000; or

(2)[~~(B)~~]  the proposed guardian is not a resident of this state.[~~; or~~]

(c)[~~(2)~~]  The commission shall obtain name-based criminal history record information of a proposed guardian, including any criminal history record information under the current name and all former names of the proposed guardian, if:

(1)[~~(A)~~]  the liquid assets of the estate of a ward are $50,000 or less; and

(2)[~~(B)~~]  the proposed guardian is a resident of this state.

(d)  Each proposed guardian described in Subsection (b) shall file with the commission proof of having submitted to a fingerprint-based criminal history search.

SECTION 30.06.  Chapter 155, Government Code, is amended to read as follows:

Sec. 155.207.  USE OF CRIMINAL HISTORY RECORD INFORMATION.

(a)  The commission shall use the criminal history record information obtained under this subchapter only for a purpose authorized by this subchapter [~~or to maintain the registration of a guardianship under Subchapter D~~].

(b)  A court may use Texas [~~the~~] criminal history record information obtained under this subchapter only in the same manner and only to the same extent a court is authorized to use the information under Section 1104.409, Estates Code.

SECTION 30.07.  Chapter 411, Government Code, is amended to read as follows:

Sec. 411.1386.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COURT CLERK; HEALTH AND HUMAN SERVICES COMMISSION; GUARDIANSHIPS. (a) Except as provided by Subsections (a-1)[~~, (a-5),~~] and (a-4) [~~(a-6)~~], the clerk of the county having venue over a proceeding for the appointment of a guardian under Title 3, Estates Code, shall in accordance with Section 411.087 obtain from the department criminal history record information maintained by the department that relates to:

(1)  a private professional guardian;

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

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

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

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

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

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

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

(a-1)  The Health and Human Services Commission shall obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to each individual who is or will be providing guardianship services to a ward of or referred by the Health and Human Services Commission, including:

(1)  an employee of or an applicant selected for an employment position with the Health and Human Services Commission;

(2)  a volunteer or an applicant selected to volunteer with the Health and Human Services Commission;

(3)  an employee of or an applicant selected for an employment position with a business entity or other person that contracts with the Health and Human Services Commission to provide guardianship services to a ward referred by that commission;

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

(5)  a contractor or an employee of a contractor who provides services to a ward of the Health and Human Services Commission under a contract with the estate of the ward.

(a-2)  The information in Subsection (a-1) regarding applicants for employment positions must be obtained before an offer of employment, and the information regarding applicant volunteers must be obtained before the person's contact with a ward of or referred by the Health and Human Services Commission.

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

(a-4)  [~~The Health and Human Services Commission shall provide the information obtained under Subsection (a-1) to:~~

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

~~(2)  the guardianship certification program of the Judicial Branch Certification Commission at the request of the Judicial Branch Certification Commission.~~

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

~~(a-6)~~]  The clerk described by Subsection (a) is not required to obtain criminal history record information from the Department of Public Safety for a person if the Judicial Branch Certification Commission conducted a criminal history check on the person under Section 155.203 and Section 155.207 [~~Chapter 155~~]. The commission shall provide to the clerk [~~at the court's request~~] the criminal history record information that was obtained from the department [~~or the Federal Bureau of Investigation~~]. The clerk shall in accordance with Section 411.087 obtain criminal history record information from the Federal Bureau of Investigation identification division relating to any person described by Subsection (a) regardless of whether the Judicial Branch Certification Commission obtains criminal history record information relating to such person.

(b)  Criminal history record information obtained by or provided to a clerk under this Section [~~Subsection (a), (a-5), or (a-6)~~] is for the exclusive use of the court and is privileged and confidential.

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

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

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

(1)  appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Health and Human Services Commission; or

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

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

~~(g)~~]  A person commits an offense if the person releases or discloses any information received under this section without the authorization prescribed by Subsection (c)[ ~~or (d)~~]. An offense under this subsection is a Class A misdemeanor.

(f)[~~(h)~~]  The county clerk may charge a $10 fee to recover the costs of obtaining ~~criminal history information records~~ criminal history record information authorized by Subsection (a).

(g)  A clerk is liable to those damaged if damage or loss results to a guardianship or ward because of the neglect or failure of the clerk to obtain criminal history record information as required by Subsection (a).

[~~(i)  This section does not prohibit the Health and Human Services Commission from obtaining and using criminal history record information as provided by other law.~~]

SECTION 30.08.  Chapter 411, Government Code, is amended to read as follows:

Sec. 411.1408.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: JUDICIAL BRANCH CERTIFICATION COMMISSION. (a) In this section, "commission" means the Judicial Branch Certification Commission established under Chapter 152.

(b)  In accordance with Section 411.087, the[~~The~~] commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for or the holder of a certificate, registration, or license issued by the commission or otherwise under Subtitle L, Title 2. The commission may not disseminate criminal history record information obtained from the Federal Bureau of Investigation.

(c)  Criminal history record information obtained by the commission under Subsection (b):

(1)  may be used by the commission for any purpose related to the issuance, denial, suspension, revocation, or renewal of a certificate, registration, or license issued by the commission or otherwise under Subtitle L, Title 2;

(2)  may not be released or disclosed to any person except:

(A)  on court order; or

(B)  [~~with the consent of the person who is the subject of the information; or~~]

~~(C)~~  as authorized by Section 411.1386(a-4)[~~(a-6)~~] of this code or Section 1104.404, Estates Code, if applicable; and

(3)  shall be destroyed by the commission after the information is used for the authorized purposes.

SECTION 30.09.  Chapter 411, Government Code, is amended to read as follows:

Sec. 411.1409.  ACCESS TO CRIMINAL HISTORY INFORMATION: APPELLATE COURTS. (a) In this section, "appellate court" means the Supreme Court of Texas, the Texas Court of Criminal Appeals, or a court of appeals.

(b)  As authorized by Section 411.087, an[~~An~~] appellate court is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for:

(1)  employment with the court;

(2)  a volunteer position with the court; or

(3)  an appointment made by the court.

(c)  Criminal history record information obtained by the court under Subsection (b) may be used only to evaluate an applicant.

(d)  The court may not release or disclose information obtained under Subsection (b) except on order of a district court [~~or with the consent of the person who is the subject of the criminal history record information~~]. Despite the issuance of an order by a district court, the court may not disseminate criminal history record information obtained from the Federal Bureau of Investigation.

(e)  After the expiration of any probationary term of the person's employment, volunteer status, or appointment, the court shall destroy all criminal history record information obtained under Subsection (b).

SECTION 28.10.  Sections 1104.403, 1104.407, 1104.408, and 1104.410, Estates Code, are repealed.

ARTICLE 31. EFFECTIVE DATE

SECTION 28.01.  Except as otherwise provided by this Act, this Act takes effect September 1, 2023.