By:  Zaffirini S.B. No. 1192

(In the Senate - Filed February 24, 2023; March 9, 2023, read first time and referred to Committee on Health & Human Services; April 25, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 25, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco            X

Hall              X

Hancock           X

Hughes            X

LaMantia          X

Miles             X

Sparks            X

COMMITTEE SUBSTITUTE FOR S.B. No. 1192 By:  Perry

A BILL TO BE ENTITLED

AN ACT

relating to access to criminal history record information for certain employees, volunteers, and contractors, and for applicants for those positions, by the Health and Human Services Commission.

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

SECTION 1.  Section 411.1106, Government Code, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsections (b-1), (c-1), and (f) to read as follows:

(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 that relates to a person who is required to be fingerprinted and is:

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

(A)  the eligibility services division of the commission; [~~or~~]

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

(C)  the regulatory services division of the commission; or

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

(b-1)  Subject to Section 411.087, 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 agency that relates to a person described by Subsection (b).

(c)  Criminal history record information obtained by [~~the executive commissioner of~~] the commission[~~, or by the executive commissioner's designee,~~] under this section [~~Subsection (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 (d).

(c-1)  Notwithstanding Subsection (c), criminal history record information obtained by the commission under Subsection (b)(1) may not be released or disclosed to any person.

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

(e)  The commission [~~executive commissioner~~] shall destroy all criminal history record information obtained under this section [~~Subsection (b)~~] as soon as practicable after the information is used for its authorized purpose.

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

SECTION 2.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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