

BILL ANALYSIS

Senate Research Center
89R8739 LRM-D

S.B. 1640
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2023, the Federal Bureau of Investigation (FBI) updated the standards for state agencies to access criminal background information. In the 88th session, the Texas Department of Public Safety led an effort on behalf of all impacted agencies to update Texas statutes to meet these standards, but the FBI recently indicated that the office of the inspector general's (OIG) language was overly broad and needed further refinement.

Current Law:

Under current law, the Health and Human Services Commission (HHSC) and OIG are authorized to obtain criminal history information for individuals with a direct or indirect ownership or control interest of five percent or more in a Medicaid provider. However, the definition is tied to federal regulation, which may not adequately encompass all relevant individuals.

Purpose:

S.B. 1640 updates and expands the criteria under which criminal history information may be obtained for persons affiliated with Medicaid providers or applicants. Specifically, it:

- Broadens the scope of individuals subject to background checks by including those with indirect financial interests, mortgage or promissory note interests, and members of corporate boards or partnerships.
- Clarifies the definition of "managing employee" to include general managers, administrators, or directors with operational or managerial control.

As proposed, S.B. 1640 amends current law relating to access to criminal history record information for purposes of the Medicaid program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.1143, Government Code, as effective April 1, 2025, by amending Subsection (a-1) and adding Subsection (e), as follows:

(a-1) Provides that criminal history record information the Health and Human Services Commission or office of inspector general is authorized to obtain under Subsection (a) (relating to entitling certain entities to obtain criminal history record information that relates to a provider under the medical assistance program) includes criminal history record information relating to:

(1) a person that:

- (A) has a direct or indirect ownership interest, or a combination of direct and indirect ownership interests, that equals five percent or more in the provider or person applying to enroll as a provider;
- (B) owns an interest of five percent or more in a mortgage, deed of trust, promissory note, or other obligation secured by the provider or person applying to enroll as a provider if that interest equals at least five percent of the value of the property or other assets of the provider or person applying to enroll as a provider;
- (C) is an officer or director of the provider or person applying to enroll as a provider if that provider or applicant is organized as a corporation; or
- (D) is a partner in the provider or person applying to enroll as a provider if that provider or applicant is organized as a partnership, rather than 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 managing employee of the provider or person applying to enroll as a provider, rather than a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

(e) Defines "managing employee," "Medicaid agency," "ownership interest," and "provider."

SECTION 2. Effective date: April 1, 2025, or September 1, 2025.