

BILL ANALYSIS

Senate Research Center

S.B. 2587
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas must align its background check statutes with federal requirements to ensure continued access to the FBI's national criminal history record database. In 2023 the legislature passed H.B. 4123 to update and reorganize state background check statutes, but the FBI determined that the changes did not fully meet federal law requirements. Specifically, state law must explicitly define which state agencies and population groups are entitled to national background checks, whether fingerprint- or name-based, for licensing and employment purposes. Without these clarifications, Texas risks losing access to federal background checks for certain agencies. Rulemaking alone does not grant entitlement to FBI background checks—it must be codified in state statutes.

S.B. 2587 would correct these deficiencies by explicitly defining the agencies and persons eligible for national background checks in state law. The bill would update and reorganize background check provisions to ensure compliance with federal standards, preserving agencies' ability to conduct thorough screenings for licensing and employment purposes. What's more, DPS has worked with affected agencies to refine relevant population definitions, ensuring that statutory changes reflect actual operational needs

By providing the necessary statutory clarity, S.B. 2587 would secure Texas' continued access to the FBI's national background check system, protect public safety, maintain compliance with federal law, and ensure agencies can effectively screen persons in regulated professions.

(Original Author/Sponsor's Statement of Intent)

S.B. 2587 amends current law relating to the access to and use of certain criminal history record information, to the procedure for obtaining that information, and to the correct terminology for certain licenses the issuance of which requires a criminal history background check.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Behavioral Health Executive Council is modified in SECTION 24 (Section 503.308, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.0845(e), Government Code, to delete existing text requiring a person entitled to receive criminal history record information under Section 411.0845 (Criminal History Clearinghouse) to provide the Department of Public Safety of the State of Texas (DPS) with the social security number of the person who is the subject of the criminal history record information requested, and to make a nonsubstantive change.

SECTION 2. Amends Section 411.086(b), Government Code, to make a conforming change.

SECTION 3. Amends Section 411.087(e), Government Code, to authorize DPS to provide access to state and national criminal history record information to a qualified entity entitled to that information regarding the entity's employees and contractors under the National Child Protection Act of 1993 (34 U.S.C. Section 40102), rather than under 42 U.S.C. Section 5119a, and to make a nonsubstantive change.

SECTION 4. Amends Section 411.095(b), Government Code, to prohibit the consumer credit commissioner from releasing or disclosing to any person criminal history record information obtained from the Federal Bureau of Investigation (FBI) under Subsection (a-1)(1) (relating to certain actions the consumer credit commissioner is authorized to take under certain sections) except to the person who is the subject of the criminal history record information.

SECTION 5. Amends Section 411.106(a), Government Code, as follows:

(a) Provides that the Texas Department of Insurance (TDI) is entitled to obtain criminal history criminal history record information as provided by Subsection (a-1) (relating to certain actions TDI is authorized to take under certain sections) 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 TDI to engage in an activity regulated under the Insurance Code, including a person who meets certain criteria; or

(2) a corporate officer or director of an insurance company regulated by TDI, including a company that is an applicant for or holder of a certificate of authority under certain provisions of the Insurance Code.

SECTION 6. Reenacts, amends to correct a typographical error, and further amends Section 411.1106(b), Government Code, as amended by Chapters 871 (H.B. 4123) and 1089 (S.B. 1192), Acts of the 88th Legislature, Regular Session, 2023, as follows:

(b) Deletes existing text providing that the Health and Human Services Commission (HHSC) is entitled to obtain criminal history record information as provided by Subsection (b-1) (relating to certain information HHSC is authorized to obtain) that relates to a person who is required to be fingerprinted and is an applicant for an employment or volunteer position or an applicant for a contract with HHSC in which the person, as an employee, volunteer, or contractor, as applicable, would have access to sensitive personal or financial information, as determined by the executive commissioner of HHSC, in certain entities. Makes a nonsubstantive change.

SECTION 7. Amends the heading to Section 411.1143, Government Code, to read as follows:

Sec. 411.1143. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION;
AGENCIES ADMINISTERING OR OPERATING MEDICAL ASSISTANCE AND
OTHER PUBLIC BENEFITS PROGRAMS.

SECTION 8. Amends Section 411.1143, Government Code, by amending Subsections (a) and (a-1) and adding Subsection (e), as follows:

(a) Provides that HHSC, an agency operating part of a public benefits program, including the medical assistance program under Chapter 32 (Medical Assistance Program), Human Resources Code, or the office of inspector general (OIG) established under Subchapter C (Office of Inspector General: General Provisions), Chapter 544 (Fraud, Waste, Abuse, and Overcharges Relating to Health and Human Services), of the Government Code, is entitled to obtain criminal history record information as provided by Subsection (a-2) (relating to certain information HHSC or OIG is authorized to obtain) that relates to a provider under a public benefits program administered by HHSC, rather than the medical assistance program, or a person applying to enroll as a provider under a public benefits program administered by HHSC. Makes conforming and nonsubstantive changes.

(a-1) Provides that criminal history record information HHSC or OIG is authorized to obtain under Subsection (a) includes criminal history record information relating to a person that meets certain criteria and a managing employee of the provider or person applying to enroll as a provider.

Deletes existing text providing that criminal history record information HHSC or OIG is authorized to obtain under Subsection (a) includes criminal history record information relating to 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 a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

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

SECTION 9. Amends Section 411.122(d), Government Code, to provide that certain state agencies are subject to Section 411.122 (Access to Criminal History Record Information: Licensing or Regulatory Agency), including the Texas Behavioral Health Executive Council, rather than the Texas State Board of Examiners of Psychologists.

SECTION 10. Amends Section 411.12506(a), Government Code, as follows:

(a) Provides that the Texas Commission on Environmental Quality (TCEQ) is entitled to obtain criminal history record information as provided by Subsection (b) (relating to certain information TCEQ is authorized to obtain) that relates to a person who:

(1) is an applicant for certain licenses and registrations,

(2) is the holder of a license, registration, or certificate, rather than a license, permit, or registration, under a provision listed in Subdivision (1); or

(3) makes a conforming change to this subdivision.

Deletes existing text providing that TCEQ is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is an applicant for a license, permit, or registration under certain chapters of the Health and Safety Code, the Occupations Code, and the Water Code. Makes a nonsubstantive change.

SECTION 11. Amends Section 411.12508(a), Government Code, to provide that the manufactured housing division of the Texas Department of Housing and Community Affairs (TDHCA) is entitled to obtain criminal history record information as provided by Subsection (b) (relating to certain information the manufactured housing division of TDHCA is authorized to obtain) that relates to a person who is an applicant for or holder of certain licenses, rather than a license under Chapter 1201 (Manufactured Housing) of the Occupations Code.

SECTION 12. Amends Section 411.12509(a), Government Code, to provide that the state fire marshal is entitled to obtain criminal history record information as provided by Subsection (b) (relating to certain information the state fire marshal is entitled to obtain) that relates to a person who is an applicant for or holder of certain licenses, rather than to a person who is an applicant for a license issued by the state fire marshal.

SECTION 13. Amends Sections 411.12510(a) and (d), Government Code, as follows:

(a) Provides that the Texas Medical Board (TMB) is entitled to obtain criminal history record information as provided by Subsection (b) (relating to certain information TMB is authorized to obtain) that relates to a person who meets certain criteria, including being an applicant for employment at or current employee of TMB. Makes nonsubstantive changes.

(d) Provides that TMB is not prohibited from disclosing criminal history record information obtained under Subsection (b)(2) (relating to certain information TMB is authorized to obtain) in a hearing conducted by TMB or its advisory boards or by the State Office of Administrative Hearings.

SECTION 14. Section 411.12511(a), Government Code, as follows:

(a) Provides that the Texas Department of Motor Vehicles (TxDMV) is entitled to obtain criminal history record information as provided by Subsection (b) (relating to certain information TxDMV is authorized to obtain) that relates to a person:

(1) makes no changes to this subdivision;

(2) makes a nonsubstantive change to this subdivision;

(3) who is an owner, officer, director, member, manager, principal, partner, trustee, or trust beneficiary of an applicant, general distinguishing number holder, or license holder; or

(4) who is an employee designated as an authorized representative by, rather than other person acting in a representative capacity for, an applicant, general distinguishing number holder, or license holder and whose act or omission in the course or scope of the person's representation would be cause for denying, revoking, or suspending a general distinguishing number or license issued under certain chapters of the Transportation Code or Occupations Code.

SECTION 15. Amends Section 411.12517, Government Code, by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), (g), and (h), as follows:

(a) Provides that the Texas State Board of Pharmacy (TSBP) is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is an applicant for or holder of certain licenses and registrations or makes certain requests.

Deletes existing text providing that TSBP is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who is an applicant for or holder of certain authorizations under certain chapters of the Occupations Code. Makes nonsubstantive changes.

(a-1) Provides that TSBP is entitled to obtain a complete set of fingerprints from a person described by Subsection (a).

(a-2) Provides that TSBP is entitled to obtain criminal history record information as provided by Subsection (b) that relates to a person who meets certain criteria.

(b) Provides that, subject to Section 411.087 (Access to Criminal History Record Information Maintained by Federal Bureau of Investigation or Local Criminal Justice Agency) and consistent with the public policy of this state, TSBP is entitled to obtain through the FBI criminal history record information maintained or indexed by that bureau that pertains to a person described by Subsection (a) or (a-2) and obtain from DPS or any other criminal justice agency in this state criminal history record information maintained by DPS or that criminal justice agency that relates to a person described by Subsection (a) or (a-2).

(g) Provides that the failure or refusal of an employee of or applicant for employment at TSBP to provide the following on request constitutes good cause for dismissal or refusal to hire: a complete set of fingerprints, a true and complete name, or other information necessary for a law enforcement entity to obtain criminal history record information.

(h) Requires an applicant for renewal of a license or registration described by Subsection (a) who has not yet submitted a complete set of fingerprints as part of a previous application for the license or registration to submit to TSBP a complete set of fingerprints with the person's completed application for renewal. Provides that failure to submit a complete set of fingerprints under this subsection may result in a suspension or refusal to renew the applicable license or registration by TSBP.

SECTION 16. Amends Section 411.136(c), Government Code, as follows:

(c) Requires the public or nonprofit hospital or hospital district to adopt a uniform method to obtain criminal history record information from persons described by Subsection (b) (relating to certain information a public or nonprofit hospital or hospital district is entitled to obtain). Makes conforming and nonsubstantive changes.

SECTION 17. Amends Section 411.1386(a), Government Code, as follows:

(a) Requires the clerk of the county having venue over a proceeding for the appointment of a guardian under Title 3 (Guardianship and Related Procedures), Estates Code, except as provided by certain sections, to, based on information provided in an application filed under Section 1101.001 (Application For Appointment of Guardian; Contents), Estates Code, obtain criminal history record information as provided by Subsection (a-7) (relating to providing that the clerk described by Subsection (a) is entitled to obtain certain information) that relates to any person, other than an attorney or a person who is a certified guardian, proposed to serve as a guardian under Title 3, Estates Code, including certain persons, including any person who will have care and custody of, rather than contact with the proposed ward or the proposed ward's estate on behalf of the proposed guardian and who is not otherwise required to submit to a criminal background check under Section 411.1386 (Access to Criminal History Record Information: Court Clerk; Health and Human Services Commission; Guardianships), rather than on behalf of the proposed guardian, other than an attorney or a certified guardian. Makes nonsubstantive changes.

SECTION 18. Amends Section 1101.001(b), Estates Code, to require that the application be sworn to by the applicant and state certain information, including, to enable a criminal history record information background check to be obtained on the person, the name, address, phone number, and date of birth, if applicable, rather than the name and address, of any person, rather than any person or institution, having the care and custody of the proposed ward or the proposed ward's estate, and to make a nonsubstantive change.

SECTION 19. Amends the heading to Section 1104.402, Estates Code, to read as follows:

Sec. 1104.402. DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION; AUTHORITY TO CHARGE FEE.

SECTION 20. Amends Section 1104.402, Estates Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the clerk of the county having venue over a proceeding for the appointment of a guardian, except as provided by certain sections, to, based on information provided in an application filed under Section 1101.001, Estates Code, obtain criminal history record information that is maintained by DPS or the FBI identification division relating to any person, other than an attorney or a person who is a certified guardian, proposed to serve as a guardian under Title 3, Estates Code, including certain persons, including any person who will have care and custody of, rather than contact with, the proposed ward or the proposed ward's estate on behalf of the proposed guardian and who is not otherwise required to submit to a criminal background check under this section, rather than on behalf of the proposed guardian, other than an attorney or a certified guardian. Makes nonsubstantive changes.

(a-1) Requires a proposed guardian who is an attorney or a certified guardian to provide to the court the name, address, phone number, and date of birth of any person who will have care and custody of the proposed ward or the proposed ward's estate on the proposed guardian's behalf. Requires the clerk, if the person having care and custody of the proposed ward or the proposed ward's estate on the proposed guardian's behalf is not also a certified guardian, to obtain criminal history record information for that person as specified by Subsection (a).

SECTION 21. Amends Section 1104.405(a), Estates Code, to make a conforming change.

SECTION 22. Amends Subchapter A, Chapter 1151, Estates Code, by adding Section 1151.006, as follows:

Sec. 1151.006. GUARDIAN'S DUTY TO NOTIFY COURT OF CHANGES CONCERNING CARE AND CUSTODY OF WARD; CLERK'S DUTY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION. (a) Provides that this section applies only to a guardian who is a certified guardian or attorney and who has designated a person to have care and custody of the ward or the ward's estate on the guardian's behalf as provided by Section 1104.402(a-1).

(b) Requires a guardian to notify the court of any change concerning the designation or contact information of a person having care and custody of a ward or the ward's estate on the guardian's behalf not later than the 30th day after the date the change occurs. Requires that the notification, if, as a result of a change in designation, the guardian wants to designate another person who will have care and custody of the ward or the ward's estate on the guardian's behalf, also include the name, address, phone number, and date of birth of that other person.

(c) Requires the clerk of the court having jurisdiction over the proceeding, on receipt of notification of a change under Subsection (b) that includes the name of a person who will have care and custody of the ward or the ward's estate on behalf of the guardian, to obtain criminal history record information that is maintained by DPS or the FBI identification division relating to that person.

SECTION 23. Amends Section 155.205(a), Government Code, as follows:

(a) Requires the clerk to obtain in accordance with Subsection (b) (relating to requiring the clerk to obtain fingerprint-based criminal history record information of a proposed guardian if certain conditions are met) criminal history record information from the FBI identification division relating to an individual seeking appointment as a guardian or temporary guardian, and any individual who will have care and custody of a proposed ward or the proposed ward's estate on behalf of a certified guardian or attorney who has been appointed guardian as required by Section 1104.402(a-1), Estates Code.

SECTION 24. Amends Section 503.308, Occupations Code, as follows:

Sec. 503.308. New heading: ASSOCIATE LICENSE. (a) Authorizes the Texas Behavioral Health Executive Council (executive council) by rule to provide for the issuance of an associate, rather than a temporary, license. Makes a conforming change.

(b) Authorizes the executive council by rule to adopt a system under which an associate license is authorized to be issued to a person who meets all of the academic and examination requirements for licensing and enters into a supervisory agreement with a supervisor approved by the executive council. Makes a conforming change.

SECTION 25. Provides that, to the extent of any conflict, this Act prevails over another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 26. Effective date: September 1, 2025.