

BILL ANALYSIS

S.B. 2587
By: Zaffirini
Homeland Security, Public Safety & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that current state law governing access to national criminal history record information by various entities has not been approved by the Federal Bureau of Investigation (FBI) with respect to the entities' access or sharing of critical background data for licensing or regulatory purposes, which can create oversight gaps or delay processing of certain applications. S.B. 2587 seeks to update language to comply with FBI requirements on specificity, clarify the authority of these entities, enhance public safety, ensure proper vetting of individuals in regulated professions, and promote consistency across the state with respect to access to national criminal history record information.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Behavioral Health Executive Council in SECTION 17 of this bill.

ANALYSIS

S.B. 2587 amends the Government Code and Occupations Code to revise provisions 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.

Access to Certain Criminal History Record Information

Social Security Numbers

Criminal History Clearinghouse and Subscription Service

S.B. 2587 removes from among the information that a person entitled to receive criminal history record information from the Department of Public Safety's (DPS) criminal history record information electronic clearinghouse and subscription service must provide to DPS regarding the individual who is the subject of the requested criminal history record information the individual's social security number.

Rules

S.B. 2587 revises the authorization for rules adopted by DPS for purposes of administering provisions relating to criminal history record information to require a person requesting criminal

history record information about an individual to submit to DPS one or more pieces of identifying information listed under current state law by removing the specification that such identifying information includes an individual's social security number.

Access to Criminal History Record Information Maintained by the FBI or Local Criminal Justice Agencies

S.B. 2587 revises the authorization for DPS to provide access to state and national criminal history record information under statutory provisions relating to access to criminal history record information maintained by the FBI or a local criminal justice agency to a qualified entity entitled to that information under provisions of the federal National Child Protection Act of 1993 relating to background checks by specifying that information to which the qualified entity is entitled is information regarding the entity's employees and contractors.

Access to Criminal History Record Information by Certain Entities

Consumer Credit Commissioner

S.B. 2587 creates an exception to the prohibition against the consumer credit commissioner releasing or disclosing to any person criminal history record information obtained from the FBI relating to a person whose criminal history record information the commissioner is entitled to obtain through the FBI by authorizing the commissioner to release or disclose such information to the person who is the subject of the criminal history record information.

Texas Department of Insurance

S.B. 2587 revises the entitlement of the Texas Department of Insurance (TDI) to obtain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to a person who is 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 by specifying that such a person includes a person who is:

- an applicant for approval of an acquisition, change, or divestiture of control of a domestic insurer under Insurance Code provisions governing insurance holding company systems;
- an applicant for or holder of a surplus lines license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a life insurance provider or broker license under the Life Settlements Act or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a title insurance agent license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of an escrow officer license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of an agent license, temporary license, or provisional permit under Insurance Code provisions relating to agent licensing in general;
- an applicant for or holder of a general property and casualty license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a managing general agent license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a license under Insurance Code provisions relating to life, accident, and health agents or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a nonresident agent license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of an insurance adjuster license or associated with an entity that is an applicant for or holder of such a license;

- an applicant for or holder of a public insurance adjuster license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a certificate of authority under Insurance Code provisions relating to third-party administrators or associated with an entity that is an applicant for or holder of such a certificate;
- an applicant for or holder of a reinsurance intermediary license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a risk manager license or associated with an entity that is an applicant for or holder of such a license;
- an applicant for or holder of a certificate of registration under Insurance Code provisions relating to utilization review agents or associated with an entity that is an applicant for or holder of such a certificate;
- associated with an independent review organization that is an applicant for or holder of a certification under applicable Insurance Code provisions;
- associated with a discount health care program operator that is an applicant for or holder of a registration under Insurance Code provisions relating to the registration of discount health care program operators; and
- an applicant for or holder of a license under Labor Code provisions relating to professional employer organizations.

Additionally, the bill revises TDI's entitlement to obtain criminal history record information that relates to a person who is a corporate officer or director of an insurance company regulated by TDI by specifying that such a company includes a company that is an applicant for or holder of a certificate of authority under Insurance Code provisions relating to the following or under the following acts, as applicable:

- certificates of authority;
- general incorporation and regulatory requirements for insurance companies other than life, health, or accident insurance companies;
- life, health, or accident insurance companies;
- the Texas Health Maintenance Organization Act;
- certification of certain nonprofit health corporations;
- multiple employer welfare arrangements;
- health care collaboratives;
- captive insurance companies;
- the Workers' Compensation Health Care Network Act; and
- the Texas Title Insurance Act.

Health and Human Services Commission

S.B. 2587 reenacts 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, to conform to changes made by Chapter 1089 (S.B. 1192), Acts of the 88th Legislature, Regular Session, 2023, which revised provisions relating to the Health and Human Services Commission's (HHSC) access to criminal history record information for certain HHSC employees. The bill further revises HHSC's entitlement to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas 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, by removing the limitation that an applicable applicant must have access to such sensitive information in the following divisions:

- the eligibility services division of HHSC;
- HHSC's office of inspector general; or
- the regulatory services division of HHSC.

S.B. 2587 revises the entitlement of certain agencies operating part of Medicaid to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas as follows:

- replaces a provision entitling an agency operating part of Medicaid to criminal history record information with a provision entitling an agency operating part of a public benefits program, including Medicaid, to criminal history record information; and
- accordingly, replaces a provision specifying that the criminal history record information to which these agencies are entitled relates to a Medicaid provider or a person applying to enroll as such a provider with a provision specifying that such information relates to a provider under a public benefits program administered by HHSC or a person applying to enroll as a provider under a public benefits program administered by HHSC.

The bill revises a provision establishing that the criminal history record information HHSC and the HHSC office of inspector general may obtain includes criminal history record information relating to certain persons as follows:

- removes the following from among those certain persons:
 - a person with a direct or indirect ownership or control interest, as defined by federal regulations relating to the disclosure of information by providers and fiscal agents, in a provider of five percent or more; and
 - a person whose information is required to be disclosed in accordance with federal regulations relating to the program integrity of Medicare and state health care programs; and
- instead, includes the following among those certain persons:
 - a person that:
 - 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;
 - 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;
 - 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
 - is a partner in the provider or person applying to enroll as a provider if that provider or applicant is organized as a partnership; and
 - a managing employee of the provider or person applying to enroll as a provider.

The bill defines the following terms for purposes of provisions relating to the access to criminal history record information of agencies administering or operating Medicaid and other public benefits programs, as revised by these bill provisions:

- "managing employee," with respect to a provider or person applying to enroll as a provider, as an individual, including a general manager, business manager, administrator, or director, who:
 - exercises operational or managerial control over all or part of the provider or applicant; or
 - directly or indirectly conducts the daily operations of all or part of the provider or applicant;
- "ownership interest," with respect to a provider or person applying to enroll as a provider, as having equity in the provider's or applicant's capital, stock, or profits; and
- "provider" as an individual or entity that engages in the delivery of health care services and is authorized to deliver those services in Texas, including an individual or entity that delivers health care services to recipients under Medicaid.

Licensing or Regulatory Agencies

S.B. 2587 replaces the provision subjecting the Texas State Board of Examiners of Psychologists to statutory provisions relating to the entitlement of certain licensing or regulatory agencies to obtain certain criminal history record information from DPS with a provision subjecting the Texas Behavioral Health Executive Council (BHEC) to those provisions.

Texas Commission on Environmental Quality

S.B. 2587 revises the entitlement of the Texas Commission on Environmental Quality (TCEQ) to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to certain persons as follows:

- removes from among those certain persons a person who is an applicant for a license, permit, or registration under:
 - the Solid Waste Disposal Act, Health and Safety Code provisions relating to minimum standards of sanitation and health protection measures, and Health and Safety Code provisions relating to on-site sewage disposal systems;
 - Occupations Code provisions relating to irrigators; or
 - Water Code provisions relating to water quality control and to occupational licensing and registration;
- instead includes a person who is an applicant for any of the following among those certain persons:
 - a water supply system operator license;
 - a backflow prevention assembly tester license;
 - a customer service inspector license;
 - a municipal solid waste facility supervisor license;
 - an on-site sewage facility installer license or apprentice registration;
 - an on-site sewage facility maintenance provider license or maintenance technician registration;
 - an on-site sewage facility designated representative license;
 - an on-site sewage facility site evaluator license;
 - a landscape irrigator or irrigation technician license;
 - an irrigation inspector license;
 - a water treatment specialist certificate;
 - a wastewater treatment plant operator license;
 - a wastewater collection system operator license;
 - a leaking petroleum storage tank corrective action project manager or specialist license; or
 - an underground storage tank on-site supervisor license; and
- with respect to those certain persons, replaces the following:
 - a person who is the holder of a license, permit, or registration under a provision listed in current state law with a person who is the holder of a license, registration, or certificate under a provision listed in these bill provisions; and
 - a person who requests a determination of eligibility for a license, permit, or registration from TCEQ under a provision listed in current state law with a person who requests a determination of eligibility for license, registration, or certificate under a provision listed in these bill provisions.

Manufactured Housing Division of the Texas Department of Housing and Community Affairs

S.B. 2587 revises the entitlement of the manufactured housing division of the Texas Department of Housing and Community Affairs (TDHCA) to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to certain persons as follows:

- removes an applicant for or holder of a license under the Texas Manufactured Housing Standards Act from among those certain persons; and

- instead, includes an applicant for or holder of the following licenses required by that act among those certain persons:
 - a manufacturer's license;
 - a retailer's license;
 - a broker's license;
 - an installer's license; or
 - a salesperson's license.

State Fire Marshal

S.B. 2587 revises the entitlement of the state fire marshal to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to certain persons as follows:

- removes a person who is an applicant for a license issued by the state fire marshal from among those certain persons; and
- instead includes among those certain persons a person who is an applicant for or holder of:
 - a fire extinguisher license or apprentice permit;
 - a fire alarm technician or residential fire alarm technician license, a residential fire alarm superintendent license, or a fire alarm planning superintendent license;
 - a fire alarm training school or instructor approval;
 - a fire protection sprinkler system contractor registration certificate or a responsible managing employee license; or
 - a license required by Occupations Code provisions governing license requirements and types of licenses for purposes of the regulation of fireworks and fireworks displays.

Texas Medical Board

S.B. 2587 revises the entitlement of the Texas Medical Board (TMB) to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to certain persons by including among those persons an applicant for employment at or current employee of the TMB. The bill establishes that the TMB is not prohibited from disclosing applicable criminal history record information in a hearing conducted by the State Office of Administrative Hearings.

Texas Department of Motor Vehicles

S.B. 2587 revises the entitlement of the Texas Department of Motor Vehicles (TxDMV) to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to certain persons by replacing the inclusion among those certain persons of a person who is 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 Transportation Code provisions relating to dealer's and manufacturer's vehicle license plates or under Occupations Code provisions relating to the sale or lease of motor vehicles or to salvage vehicle dealers with an inclusion among those certain persons of a person 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
- an employee designated as an authorized representative by 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 those Transportation Code or Occupations Code provisions.

S.B. 2587 revises the entitlement of the Texas State Board of Pharmacy (TSBP) to obtain certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to certain persons as follows:

- removes from among those certain persons a person who is an applicant for or holder of:
 - a license, certificate, registration, permit, or other authorization under Occupations Code provisions relating to pharmacist-interns, a license to practice pharmacy, the renewal of a license to practice pharmacy, and pharmacy technicians and pharmacy technician trainees; and
 - a Class A, Class B, Class C, Class D, or Class E pharmacy license under Occupations Code provisions relating to the licensing of pharmacies and to the renewal of a pharmacy license;
- instead includes an applicant for or holder of the following under applicable Occupations Code provisions:
 - a registration as a pharmacist-intern;
 - a license by examination to practice pharmacy;
 - a license by reciprocity to practice pharmacy;
 - a provisional license to practice pharmacy; or
 - a registration as a pharmacy technician or a pharmacy technician trainee; and
- with respect to the inclusion of a person who requests a determination of eligibility for a license, certificate, registration, permit, or other authorization from the TSBP, specifies that such a determination be made under Occupations Code provisions relating to a preliminary evaluation of license eligibility.

The bill entitles the TSBP to obtain a complete set of fingerprints from any of those certain persons and requires an applicant for renewal of an applicable license or registration described by these provisions who has not yet submitted a complete set of fingerprints as part of a previous application for the license or registration to submit to the TSBP a complete set of fingerprints with the person's completed application for renewal. The bill establishes that failure to submit a complete set of fingerprints under that requirement may result in a suspension or refusal to renew the applicable license or registration by the TSBP. The bill, in addition to the certain persons listed in these provisions, entitles the TSBP to certain criminal history record information through the FBI and from DPS or any other criminal justice agency in Texas that relates to a person who is the following:

- a partner, officer, director, managing employee, or owner or person who controls the owner of a pharmacy; and
- an applicant for or a holder of a Class A, B, C, D, or E pharmacy license issued under Occupations Code provisions relating to pharmacy license classifications.

The bill establishes that failure or refusal of an employee of or an applicant for employment at the 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.

Certain Hospitals and Hospital Districts

S.B. 2587 removes the authorization for an applicable public or nonprofit hospital or hospital district to require the social security number of a person whose related criminal history record information maintained by DPS the applicable hospital or hospital district is entitled to obtain from DPS under applicable state law for purposes of the method adopted by the applicable hospital or hospital district to obtain that information.

Licensed Professional Counselors

S.B. 2587 revises the authorization for BHEC by rule to provide for the issuance of a temporary license under the Licensed Professional Counselor Act and by rule to adopt a system under which a temporary license may be issued to an eligible person as follows:

- changes the type of license that BHEC may issue from a temporary license to an associate license; and
- requires a person to meet all of the examination requirements for licensing to be eligible for the applicable license, in addition to the current requirement that a person meet all of the academic requirements for licensing.

Procedural Provision

S.B. 2587 establishes that, to the extent of any conflict, the bill prevails over another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

EFFECTIVE DATE

September 1, 2025.