

GOVERNMENT CODE

SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION

CHAPTER 411. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS

SUBCHAPTER A. GENERAL PROVISIONS AND ADMINISTRATION

Sec. 411.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Public Safety Commission.
- (2) "Department" means the Department of Public Safety of the State of Texas.
- (3) "Director" means the public safety director.
- (4) "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 791, Sec. 1, eff. June 18, 1999.

Sec. 411.002. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS. (a) The Department of Public Safety of the State of Texas is an agency of the state to enforce the laws protecting the public safety and provide for the prevention and detection of crime. The department is composed of the Texas Rangers, the Texas Highway Patrol, the administrative division, and other divisions that the commission considers necessary.

(b) The department shall have its principal office and headquarters in Austin.

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 2009.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.19(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 1.23, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 790, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1169, Sec. 4.03, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 1, eff. Sept. 1, 1999.

Sec. 411.003. PUBLIC SAFETY COMMISSION. (a) The Public Safety Commission controls the department.

(b) The commission is composed of three citizens of this state appointed by the governor with the advice and consent of the senate. Members must be selected because of their peculiar qualifications for the position. Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin. In making an appointment the governor shall consider, among other things, the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability.

(c) Members serve staggered six-year terms with the term of one member expiring January 1 of each even-numbered year.

(d) The governor shall designate one member of the commission as chairman of the commission to serve in that capacity at the pleasure of the governor. The commission shall meet at the times and places specified by commission rule or at the call of the chairman or any two members.

(e) A member serves without compensation for service on the commission but is entitled to per diem for expenses as provided by the General Appropriations Act.

(f) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 2, eff. Sept. 1, 1993.

Sec. 411.0031. TRAINING FOR COMMISSION MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the department and the commission;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the

department;

- (7) the requirements of:
 - (A) the open meetings law, Chapter 551;
 - (B) the public information law, Chapter 552;
 - (C) the administrative procedure law, Chapter 2001; and
 - (D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 4, eff. Sept. 1, 1993.

Sec. 411.0036. REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 411.003;

(2) does not maintain during service on the commission the qualifications required by Section 411.003;

(3) violates a prohibition established by Section 411.0035;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the commission of the potential ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the director shall notify the member with the longest tenure on the commission, other than the chairman, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 5, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 2, eff. Sept. 1, 1999.

Sec. 411.004. DUTIES AND POWERS OF COMMISSION. The commission shall:

- (1) formulate plans and policies for:

(A) enforcement of state criminal, traffic, and safety laws;

(B) prevention of crime;

(C) detection and apprehension of persons who violate laws; and

(D) education of citizens of this state in the promotion of public safety and the observance of law;

(2) organize the department and supervise its operation;

(3) adopt rules considered necessary for carrying out the department's work;

(4) maintain records of all proceedings and official orders; and

(5) biennially submit a report of its work to the governor and legislature, including the commission's and director's recommendations.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 3, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.0041. OPEN MEETINGS EXCEPTION: CRIMINAL INVESTIGATIONS. A discussion or deliberation of the commission regarding an ongoing criminal investigation, including a vote to issue a directive or take other action regarding the investigation, is not subject to the open meetings law, Chapter 551.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.005. DIRECTOR AND ASSISTANT DIRECTOR. (a) The commission shall appoint a citizen of this state as public safety director. The director serves until removed by the commission.

(b) The director may appoint, with the advice and consent of the commission, assistant directors who shall perform the duties that the director designates. An assistant director serves until removed by the director.

(c) The commission shall select the director, and the director shall select an assistant director, on the basis of the person's training, experience, and qualifications for the position. The director and an assistant director must have five years' experience, preferably in police or public administration. The director and an assistant director are entitled to annual salaries as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 4, eff. Sept. 1, 1999.

Sec. 411.006. DUTIES OF DIRECTOR. (a) The director shall:

(1) be directly responsible to the commission for the conduct of the department's affairs;

(2) act as executive director of the department;

(3) act with the commission in an advisory capacity, without vote;

(4) adopt rules, subject to commission approval, considered necessary for the control of the department;

(5) issue commissions as law enforcement officers, under the commission's direction, to all members of the Texas Rangers and the Texas Highway Patrol and to other officers of the department;

(6) appoint, with the advice and consent of the commission, the head of a division or bureau provided for by this chapter;

(7) quarterly, annually, and biennially submit to the commission detailed reports of the operation of the department, including statements of its expenditures; and

(8) prepare, swear to, submit to the governor, and file in the department's records a quarterly statement containing an itemized list of all money received and its source and all money spent and the purposes for which it was spent.

(b) The director or the director's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 5, eff. Sept. 1, 1999.

Sec. 411.007. OFFICERS AND EMPLOYEES. (a) Subject to the provisions of this chapter, the director may appoint, promote, reduce, suspend, or discharge any officer or employee of the department.

(b) Appointment or promotion of an officer or employee must be based on merit determined under commission rules that take into consideration the applicant's age and physical condition, if appropriate and to the extent allowed under federal law, and that take into consideration the applicant's experience and education. For promotions of commissioned officers, other than those positions covered under Section 411.0071, the department, with the advice and consent of the commission, shall establish processes to be consistently applied and based on merit. Each person who has an application on file for a position in the department for which an applicant must take an examination shall be given reasonable written notice of the time and place of those examinations.

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in

the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

(d) At least annually the heads of the divisions and bureaus, after due investigation, shall make a report to the director of the efficiency of each employee within the division or bureau. These reports shall be kept in the department's permanent files and shall be given proper consideration in all matters of promotion and discharge.

(e) An officer or employee of the department may not be discharged without just cause. The director shall determine whether an officer or employee is to be discharged. An officer or employee ordered discharged may appeal to the commission, and during the appeal the officer or employee shall be suspended without pay. Except as provided by Subsection (f), the department may not discharge, suspend, or demote a commissioned officer except for the violation of a specific commission rule. If the department discharges, suspends, or demotes an officer, the department shall deliver to the officer a written statement giving the reasons for the action taken. The written statement must point out each commission rule alleged to have been violated by the officer and must describe the alleged acts of the officer that the department contends are in violation of the commission rules.

(f) The commission shall establish necessary policies and procedures for the appointment, promotion, reduction, suspension, and discharge of all employees. A discharged officer or employee is entitled, on application to the commission, to a public hearing before the commission, who shall affirm or set aside the discharge. The commission shall affirm or set aside a discharge on the basis of the evidence presented. If the commission affirms the discharge, the discharged officer may seek judicial review, not later than the 90th day after the date the commission affirms the discharge, in a district court under the substantial evidence standard of review, and the officer remains suspended without pay while the case is under judicial review. A noncommissioned employee inducted into the service of the department is on probation for the first one year of service, and an officer is on probation from the date the person is inducted into the service of the department until the anniversary of the date the person is commissioned. At any time during the probationary period, a person may be discharged without the public hearing provided for by this subsection if the director, with the advice and consent of the commission, finds the person to be unsuitable for the work.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.20(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 790, Sec. 6, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1189, Sec. 6, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 814, Sec. 1, eff. June 17, 2005; Acts 2005, 79th Leg., ch. 955, Sec. 1, eff. June 18, 2005.

Sec. 411.0071. DIRECT APPOINTMENT TO MANAGEMENT TEAM POSITIONS BY DIRECTOR. (a) The director may designate a head of a division or a position that involves working directly with the director as a management team position.

(b) The director may directly appoint a person to a position designated as a management team position under Subsection (a) under criteria determined by the director and approved by the commission. The director's appointment of a person to a management team position or transfer of a person from a management team position to another position for which the person is qualified, as determined by the director, is not subject to Section 411.007.

(c) A person appointed to a management team position under this section, on removal from that position, shall be returned to the position the person held immediately before appointment to the management team position or to a position of equivalent rank. If a person is removed from a management team position as a result of the filing of a formal charge of misconduct, this subsection applies only if the person is exonerated for the misconduct charged.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0072. EMPLOYMENT-RELATED GRIEVANCES AND APPEALS OF DISCIPLINARY ACTIONS WITHIN THE DEPARTMENT. (a) In this section:

(1) "Disciplinary action" means discharge, suspension, or demotion.

(2) "Employment-related grievance" means an employment-related issue, other than a disciplinary action, in regard to which an employee wishes to express dissatisfaction, including promotions, leave requests, performance evaluations, transfers, benefits, working environment, shift or duty assignments, harassment, retaliation, and relationships with supervisors or other employees or any other issue the commission determines by rule.

(b) The commission shall establish procedures and practices governing the appeal of a disciplinary action within the department.

(c) The commission shall establish procedures and practices through which the department will address an employment-related grievance that include:

(1) a form on which an employee may state an employment-related grievance and request a specific corrective action;

(2) time limits for submitting a grievance and for management to respond to a grievance;

(3) a multilevel process in which an employee's grievance is submitted to the lowest appropriate level of management, with each subsequent appeal submitted to a higher level in the chain of command;

(4) an assurance that confidentiality of all parties involved will be maintained, except to the extent that information that is subject to required public disclosure under the public information law, Chapter 552, is released in response to an open records request, and that retaliation against an employee who files a grievance is prohibited; and

(5) a program to advertise and explain the grievance procedure to all employees.

(d) The department shall submit annually to the commission, and as part of its biennial report to the legislature required under Section 411.004, a report on the department's use of the employment-related grievance process under Subsection (c). The report must include:

(1) the number of grievances filed;

(2) a brief description of the subject of each grievance filed; and

(3) the final disposition of each grievance.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0073. MEDIATION OF PERSONNEL DISPUTES. (a) The commission shall establish procedures for an employee to resolve an employment-related grievance covered by Section 411.0072 through mediation if the employee chooses. The procedures must include mediation procedures and establish the circumstances under which mediation is appropriate for an employment-related grievance.

(b) Except for Section 2008.054, Chapter 2008, as added by Chapter 934, Acts of the 75th Legislature, Regular Session, 1997, does not apply to the mediation. The mediator must be trained in mediation techniques.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN APPLICANTS. (a) This section does not apply to:

(1) an applicant who is currently a peace officer of the department commissioned by the department; or

(2) an applicant for a police communications operator position who is currently employed by the department in another police communications operator position.

(b) Before commissioning an applicant as a peace officer or employing an applicant for a police communications operator position, the department shall require the applicant to submit to the administration of a polygraph examination in accordance with rules adopted under Subsection (e).

(c) The polygraph examination required by this section may only be administered by a polygraph examiner licensed under Chapter 1703, Occupations Code, who:

(1) is a peace officer commissioned by the department;

or
(2) has a minimum of two years of experience conducting preemployment polygraph examinations for a law enforcement agency.

(d) The department and the polygraph examiner shall

maintain the confidentiality of the results of a polygraph examination administered under this section, except that:

(1) the department and the polygraph examiner may disclose the results in accordance with Section 1703.306, Occupations Code; and

(2) notwithstanding Section 1703.306, Occupations Code, the department may disclose any admission of criminal conduct made during the course of an examination to another appropriate governmental entity.

(e) The department shall adopt reasonable rules to specify the point in the hiring process at which the department shall require a polygraph examination to be administered under this section and the manner in which the examination shall be administered. Rules relating to the administration of a polygraph examination shall be adopted in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.

(f) The department shall use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

Added by Acts 2005, 79th Leg., ch. 814, Sec. 2, eff. June 17, 2005; Acts 2005, 79th Leg., ch. 955, Sec. 2, eff. June 18, 2005.

Sec. 411.0075. PERSONNEL POLICIES. (a) The director or the director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all non-entry-level positions concurrently with any public posting.

(b) The director or the director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(c) A policy statement prepared under Subsection (b) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(d) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (c) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 7, eff. Sept. 1, 1993.

Sec. 411.0076. MINORITY RECRUITING. (a) The department shall continue to place emphasis on minority recruiting and hiring efforts for noncommissioned positions.

(b) The department's minority recruiter and equal employment opportunity positions created for personnel and equal employment opportunity matters shall continue to pertain to both commissioned and noncommissioned employees.

(c) The department by September, 1994, shall study job requirements for all noncommissioned positions and thereafter shall limit promotion-from-within only to positions where department experience is essential for reasonable job performance.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 7, eff. Sept. 1, 1993.

Sec. 411.0077. LIMITATION ON RESTRICTIONS ON CERTAIN OFF-DUTY ACTIVITIES. (a) During the period that the officer is off duty, a commissioned officer of the department is entitled to attend educational programs or courses or to engage in any outside employment that does not adversely affect the operations or the reputation of the department. The rights of a commissioned officer under this section are subject to any reasonable department requirements that the officer be accessible to the department during off-duty periods for the possible performance of official duties.

(b) The department shall adopt reasonable guidelines

relating to acceptable off-duty employment. The guidelines shall be uniformly applied to all supervisory and nonsupervisory commissioned officers.

(b-1) If the department denies approval of a commissioned officer's secondary employment or proposed secondary employment, the director or the director's designee must promptly notify the officer in writing of the specific guideline adopted under Subsection (b) on which the department's decision is based. The notice must explain why the secondary employment or proposed secondary employment is prohibited by the referenced guideline.

(c) If a commissioned officer is engaged in off-duty employment that the officer believes, in good faith, is not prohibited by a specific guideline adopted under Subsection (b), the officer is authorized to engage in the off-duty employment until the director or the director's designee informs the officer in writing that the employment is not acceptable.

Added by Acts 1989, 71st Leg., ch. 379, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 335, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 921, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.0078. USE OF UNIFORM WHILE PERFORMING CERTAIN OFF-DUTY ACTIVITIES. (a) An officer commissioned by the department may purchase from the department at fair market value a uniform to be used by the officer while providing law enforcement services for a person or entity other than the department. If an officer who purchased a uniform under this subsection leaves the service of the department for any reason, the officer shall return the uniform to the department. The department shall pay the officer the fair market value of the uniform at the time it is returned. For purposes of this subsection:

(1) a uniform does not include a handgun or other weapon; and
(2) the fair market value of a uniform is determined by the department.

(b) An officer wearing a uniform purchased under Subsection (a) may not act in a manner that adversely affects the operations or reputation of the department.

(c) The department shall adopt reasonable guidelines regarding:

(1) the types of law enforcement services for which an officer may purchase and wear a uniform under Subsection (a) and the circumstances under which the officer may perform those services; and

(2) the standards of behavior to be maintained by an officer who wears a uniform purchased under Subsection (a).

Added by Acts 1995, 74th Leg., ch. 738, Sec. 1, eff. Sept. 1, 1995.

Sec. 411.0079. WORKING CONDITIONS FOR CERTAIN PREGNANT OFFICERS. (a) The director shall make reasonable efforts to accommodate the request of a commissioned officer of the department who is determined by a physician to be partially physically restricted by a pregnancy if the request is related to the officer's working conditions.

(b) If the physician of an officer certifies that, because of the officer's pregnancy, the officer is unable to perform the duties of the officer's permanent work assignment and a temporary work assignment that the officer may perform is available, the director shall, on request of the officer, assign the officer to the temporary work assignment.

Added by Acts 2003, 78th Leg., ch. 891, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.008. DISTRICT HEADQUARTERS. The commission may establish district headquarters and stations at various places in the state and provide personnel and equipment necessary for their functioning and operation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0085. DRIVER'S LICENSE FACILITIES: PERSONNEL. The department may not assign more than 123 commissioned officers plus supervising personnel to driver's license facilities.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 4, eff. Sept. 1, 1995.

Sec. 411.009. LOCAL COOPERATION. (a) The sheriff and constables of each county and chief of police of each municipality are associate members of the department and are entitled to the rights and privileges granted to them by the department.

(b) The director may require a sheriff or other police officer in a county or municipality, within the limits of the officer's jurisdiction, to aid or assist in the performance of a duty imposed by this chapter. The officer shall comply with the

order to the extent requested.

(c) The director with the advice and consent of the commission shall formulate and put into effect plans and means of cooperating with sheriffs, local police, and other peace officers throughout the state to prevent and discover crime, apprehend criminals, and promote public safety. Each local police and peace officer shall cooperate with the director in the plans.

(d) Each telegraph and telephone company and radio station operating in the state shall grant priority of service to a police agency and the department when notified that the service is urgent in the interests of the public welfare.

(e) The commissioners court of each county may furnish to the department necessary building space for establishing a branch crime detection laboratory to serve the general area of the state in which the county is located. If the county offers to furnish necessary space, the department may equip and operate the laboratory within the limits of its general authority and available appropriations. Unless the legislature has specifically directed the establishment and operation of a branch laboratory, the commission has discretion to decide whether a branch laboratory should be established or maintained.

(f) If the Commissioners Court of El Paso County furnishes without cost to the state the necessary building space, the department shall establish and operate a branch crime detection laboratory in El Paso County to serve the West Texas area, if the department determines that efficient enforcement of law requires establishment of the laboratory and sufficient funds are available in the department.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0091. SEX OFFENDER COMPLIANCE UNIT. (a) The director shall create a sex offender compliance unit to be operated by the department.

(b) The sex offender compliance unit shall investigate and arrest individuals determined to have committed a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

(c) The legislature may appropriate funds to the department from the fugitive apprehension account for the purpose of paying the costs to the department of implementing this section.

(d) The department may adopt rules as necessary to implement this section.

Added by Acts 1999, 76th Leg., ch. 150, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 411.0098 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(39), eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 1008, Sec. 2.08, eff. Sept. 1, 2005.

Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER CROSSING. (a) The department may establish a program for the purpose of establishing border crossing checkpoints to prevent stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft from entering Mexico.

(b) A checkpoint may be established under Subsection (a) if the checkpoint is:

(1) located within 250 yards of a federally designated crossing facility located at or near the actual boundary between this state and Mexico;

(2) located on a public highway or street leading directly to an international border crossing;

(3) designed to stop only traffic bound for Mexico; and

(4) operated in such a manner as to stop only vehicles, tractors or implements, equipment, aircraft, or watercraft for which law enforcement authorities have probable cause to believe is stolen and bound for Mexico.

(c) The department may establish the border crossing checkpoint program in conjunction with local law enforcement authorities. The department and local law enforcement authorities may share the cost of staffing the checkpoints.

(d) The department shall establish procedures governing the encounter between the driver and the peace officers operating the checkpoint that ensure that any intrusion on the driver is minimized and that the inquiries made are reasonably related to the purpose of the checkpoint. A peace officer at the checkpoint may not direct a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the roadway unless the officer has reasonable suspicion or probable cause to believe that the person committed or is committing an offense. However, a peace officer may

require that each motor vehicle passing through the checkpoint be diverted to a location immediately adjacent to the roadway, if desirable, to ensure safety.

(e) In this section:

(1) "Motor vehicle" and "vehicle" have the meanings assigned to those terms by Section 541.201, Transportation Code.

(2) "Watercraft" has the meaning assigned by Section 49.01, Penal Code.

Added by Acts 1993, 73rd Leg., ch. 497, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 184, Sec. 1, eff. May 23, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.191, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 670, Sec. 1, eff. Sept. 1, 1999.

Sec. 411.0096. MEMORANDUM OF UNDERSTANDING WITH CRIMINAL JUSTICE DIVISION OF THE OFFICE OF THE GOVERNOR. (a) The department and the office of the governor, criminal justice division, by rule shall adopt a joint memorandum of understanding on coordinating the drug law enforcement efforts of the department and the criminal justice division.

(b) The memorandum of understanding shall:

(1) provide that the department shall advise the criminal justice division about the statewide drug policy planning efforts of the division;

(2) provide for representation by the department on any advisory board advising the governor about drug policy;

(3) require the criminal justice division and the department to define their respective roles relating to drug task forces;

(4) require the criminal justice division and the department to jointly determine the areas of law enforcement focus for drug task force efforts; and

(5) require the criminal justice division and the department to jointly develop guidelines and procedures to govern drug task force operations that are funded by the state.

(c) The criminal justice division and the department shall update and revise the memorandum of understanding as necessary and by rule adopt all revisions to the memorandum.

(d) Expired.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 8, eff. Sept. 1, 1993. Renumbered from V.T.C.A., Government Code Sec. 411.0095 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(13), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 184, Sec. 2, eff. May 23, 1995.

Sec. 411.0097. MULTICOUNTY DRUG TASK FORCES.

Text of section as added by Acts 2005, 79th Leg., ch. 556, Sec. 3.

(a) The department shall establish policies and procedures for multicounty drug task forces, as defined by Section 362.001, Local Government Code, and may exercise the authority necessary to ensure compliance with those policies and procedures.

(b) The department shall evaluate each multicounty drug task force with respect to whether the task force:

(1) complies with state and federal requirements, including policies and procedures established by department rule; and

(2) demonstrates effective performance outcomes.

(c) The department shall submit semiannually to the governor's office and the Legislative Budget Board a report that includes a written evaluation of the matters described by Subsection (b).

Added by Acts 2005, 79th Leg., ch. 556, Sec. 3, eff. Sept. 1, 2005. For text of section as added by Acts 2005, 79th Leg., ch. 693, Sec. 1, see Sec. 411.0097, post.

Sec. 411.0097. TRANSPORTATION AND INSPECTIONS MEETING WITH REPRESENTATIVES OF MEXICAN STATES.

Text of section as added by Acts 2005, 79th Leg., ch. 693, Sec. 1.

(a) The department shall initiate efforts to meet at least quarterly with the department's counterparts in the Mexican states bordering this state to discuss issues relating to truck inspections and transportation and infrastructure involved in truck inspections and transportation.

(b) To assist the department in carrying out this section, the department shall contact the border commerce coordinator designated under Section 772.010 and the mayors of each municipality in this state in which a port of entry for land traffic is located.

(c) At least one department representative participating in a meeting under Subsection (a) must be proficient in Spanish.

(d) The department, in conjunction with the border commerce coordinator, shall develop short-range and long-range plans, including recommendations to increase bilateral relations with Mexico and expedite trade by mitigating delays in border crossing inspections for northbound truck traffic. In developing the plans, the department and coordinator shall consider information obtained from any meetings under Subsection (a). The department shall update the plan biennially and submit the updated plan to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature on or before December 1 of each even-numbered year.

Added by Acts 2005, 79th Leg., ch. 693, Sec. 1, eff. June 17, 2005. For text of section as added by Acts 2005, 79th Leg., ch. 556, Sec. 3, see Sec. 411.0097, ante.

Sec. 411.0098. COORDINATION WITH DEPARTMENT OF TRANSPORTATION. (a) The department and the Texas Department of Transportation shall establish procedures to ensure effective coordination of the development of transportation infrastructure projects that affect both agencies.

(b) Procedures established under this section shall:

(1) allow each agency to provide comments and advice to the other agency on an ongoing basis regarding statewide transportation planning efforts that affect traffic law enforcement;

(2) define the role of each agency in transportation infrastructure efforts; and

(3) require the department and the Texas Department of Transportation to develop a plan for applying for and using federal funds to address infrastructure needs that affect enforcement efforts.

(c) The department and the Texas Department of Transportation shall:

(1) update and revise the procedures established under this section as necessary; and

(2) file not later than January 15 of each odd-numbered year with the presiding officer of each house of the legislature a report that describes the procedures established under this section and their implementation.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0099. NEEDS ASSESSMENT FOR ENFORCEMENT OF COMMERCIAL MOTOR VEHICLE RULES. (a) The department shall conduct a long-term needs assessment for the enforcement of commercial motor vehicle rules that considers at a minimum:

(1) the inventory of current facilities and equipment used for enforcement, including types of scales, structures, space, and other equipment;

(2) enforcement activity, including trend information, at fixed-site facilities;

(3) staffing levels and operating hours for each facility; and

(4) needed infrastructure improvements and the associated costs and projected increase in activity that would result from the improvements.

(b) The department shall submit a biennial report to the legislative committees with primary jurisdiction over state budgetary matters and the Texas Transportation Commission that reflects the results of the needs assessment conducted under Subsection (a). The report shall be submitted to the legislature in conjunction with the department's legislative appropriations request.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.010. ASSISTANCE OF STATE AGENCIES. The attorney general, the Texas Department of Transportation, the Texas Department of Health, and all other departments of state government shall cooperate with the department in the execution of this chapter and the enforcement of state laws concerning public safety and crime prevention and detection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(34), eff. Sept. 1, 1995.

Sec. 411.011. ASSISTANCE OF STATE EDUCATIONAL INSTITUTIONS. (a) The University of Texas and all other state-supported educational institutions shall:

(1) cooperate with the department in carrying out this chapter;

(2) assist in the giving of instruction in the

training schools conducted by the bureau of education; and

(3) assist the bureau of identification and records in making necessary chemical tests and analyses and in making statistical analyses, charts, and reports of law enforcement and violations of law.

(b) The commission and the president of the educational institution called on for assistance shall agree on and arrange the nature and extent of the assistance.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.012. COMMAND BY GOVERNOR. The governor may assume command and direct the activities of the commission and department during a public disaster, riot, insurrection, or formation of a dangerous resistance to enforcement of law, or to perform the governor's constitutional duty to enforce law. The governor shall use the personnel of the Texas Highway Patrol only if the other personnel of the department are unable to cope with the emergency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.013. EXPENDITURES, DONATIONS, AND APPROPRIATIONS. (a) Repealed by Acts 1997, 75th Leg., ch. 1206, Sec. 28, eff. Sept. 1, 1997.

(b) The department may accept donations of money and other real or personal property from any individual, group, association, corporation, or governmental agency and may use those donations for any purpose designated by the donor that furthers the exercise of duties imposed by law on the department.

(c) Appropriations for the Texas Highway Patrol must be made from the state highway fund.

(d) The department shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.21(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 790, Sec. 9, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1206, Sec. 28, eff. Sept. 1, 1997.

Sec. 411.0131. USE OF SEIZED AND FORFEITED ASSETS. (a) The commission by rule shall establish a process under which the commission approves all of the department's dispositions of assets seized or forfeited under state or federal law and received by or appropriated to the department. The commission shall adopt rules under this section in accordance with Chapter 2001. Before approving a disposition, the commission shall consider how the disposition supports priorities established in the department's strategic plan and whether the disposition complies with applicable federal guidelines.

(b) The department shall file annually with the governor and the presiding officer of each house of the legislature a report on seized and forfeited assets. The report must include:

(1) a summary of receipts, dispositions, and fund balances for the fiscal year derived from both federal and state sources;

(2) regarding receipts, the court in which each case involving seized or forfeited assets was adjudicated, the nature and value of the assets, and the specific intended use of the assets;

(3) regarding dispositions, the departmental control number and category, the division making the request, the specific item and amount requested, the amount the commission approved, and the actual amount expended per item; and

(4) regarding planned dispositions, a description of the broad categories of anticipated dispositions and how they relate to the department's strategic plan.

(c) The department shall, within 30 days after the end of each quarter, report and justify any dispositions of seized or forfeited assets during the quarter that:

(1) differ from the planned dispositions reported under Subsection (b); and

(2) were used for a purpose not considered a priority in the department's strategic plan or not required by law or applicable federal guidelines.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0135. METHOD OF PAYMENT OF FEES AND CHARGES. (a) The department may adopt rules regarding the method of payment of

any fee or charge that is imposed or collected by the department.

(b) Rules adopted under Subsection (a) may authorize payment, under circumstances prescribed by the department:

(1) in person, by mail, by telephone, or over the Internet;

(2) by means of electronic funds transfer; or

(3) by means of a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the department.

(c) The department by rule may require, in addition to the amount of the fee or charge, the payment of:

(1) a discount, convenience, or service charge for a payment transaction; or

(2) a service charge in connection with the payment of a payment transaction that is dishonored or refused for lack of funds or insufficient funds.

Added by Acts 2001, 77th Leg., ch. 866, Sec. 3, eff. Sept. 1, 2001.

Sec. 411.014. BUILDINGS AND EQUIPMENT. (a) The state shall provide the necessary buildings, offices, and quarters for the department and its officers and employees in Austin and other places in the state where district headquarters are located. The state shall provide furniture, fixtures, automobiles, motorcycles, horses, firearms, ammunition, uniforms, appliances, and other materials necessary to the proper functioning and operation of the department.

(b) The department's physical plant in Austin is under the department's control and management for the use and benefit of the state in the discharge of the official duties of the department.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.015. ORGANIZATION. (a) Except as provided by Subsection (b), the designation by this chapter of certain divisions and division chiefs is not mandatory and this chapter does not prevent the commission from reorganization or consolidation within the department in the interest of more efficient and economical management and direction of the department. The director, with the commission's approval, may organize and maintain within the department divisions of service considered necessary for the efficient conduct of the department's work.

(b) The number of divisions may not exceed the number of divisions existing on August 22, 1957. The division relating to the Texas Rangers may not be abolished.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.016. SUPPLEMENTAL PAY. (a) This section applies to an officer commissioned by the department who is not employed in a position that the director has declared to be administrative, executive, or professional.

(b) If, during a calendar week, the total number of hours worked by a commissioned officer plus the number of hours of leave taken for which the officer is entitled to compensation, including approved sick leave, vacation, holiday, holiday compensatory time, emergency leave, administrative leave, and jury duty, equal more than 40 hours, the excess is overtime. For each calendar month, the overtime for each week ending during that month shall be totaled. If the total overtime for the month exceeds eight hours, the officer may receive, in addition to the officer's regular monthly salary, a supplement determined as follows:

(1) a commissioned officer who accumulates more than eight hours but less than 16 hours of overtime in a calendar month may receive five percent of the officer's regular monthly salary;

(2) a commissioned officer who accumulated 16 or more hours but less than 32 hours of overtime in a calendar month may receive 10 percent of the officer's regular monthly salary; and

(3) a commissioned officer who accumulated 32 or more hours of overtime in a calendar month may receive 15 percent of the officer's regular monthly salary.

(c) The formula prescribed by Subsection (b) is the exclusive method of computing state compensation for overtime entitlements. This section applies only to the computation of overtime entitlements and does not apply to the method of compensating a commissioned officer for working on regularly scheduled state holidays.

(d) A commissioned officer may receive a supplement paid by the federal government earned while working on a project funded by

the federal government, and that supplement may not be considered in determining a commissioned officer's entitlement under this section.

(e) If the funds appropriated to the department to provide supplemental pay are insufficient to pay all earned overtime entitlements, the director may provide for compensatory time to be taken during the biennium in which the entitlements are earned. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.017. UNAUTHORIZED ACTS INVOLVING DEPARTMENT NAME, INSIGNIA, OR DIVISION NAME. (a) A person commits an offense if, without the director's authorization, the person:

(1) manufactures, sells, or possesses a badge, identification card, or other item bearing a department insignia or an insignia deceptively similar to the department's;

(2) makes a copy or likeness of a badge, identification card, or department insignia, with intent to use or allow another to use the copy or likeness to produce an item bearing the department insignia or an insignia deceptively similar to the department's; or

(3) uses the term "Texas Department of Public Safety," "Department of Public Safety," "Texas Ranger," or "Texas Highway Patrol" in connection with an object, with the intent to create the appearance that the object belongs to or is being used by the department.

(b) In this section, "department insignia" means an insignia or design prescribed by the director for use by officers and employees of the department in connection with their official activities. An insignia is deceptively similar to the department's if it is not prescribed by the department but a reasonable person would presume that it was prescribed by the department.

(c) A district or county court, on application of the attorney general or of the district attorney or prosecuting attorney performing the duties of district attorney for the district in which the court is located, may enjoin a violation or threatened violation of this section on a showing that a violation has occurred or is likely to occur.

(d) It is an affirmative defense to a prosecution under this section that the object is used exclusively:

(1) for decorative purposes, maintained or preserved in a decorative state, and not offered for sale; or

(2) in an artistic or dramatic presentation, and before the use of the object the producer of the presentation notifies the director in writing of the intended use, the location where the use will occur, and the period during which the use will occur.

(e) An offense under this section is a Class A misdemeanor, unless the object is shipped by United States mail or by any type of commercial carrier from a point outside the State of Texas to a point inside the state if the shipper or his agent has been sent notification by registered United States mail of this section prior to the shipment, in which event the offense is a felony of the third degree.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 496, Sec. 1, eff. Sept. 1, 1989.

Sec. 411.0175. ACCIDENT REPORTS. The department shall:

(1) tabulate and analyze the vehicle accident reports it receives;

(2) annually or more frequently publish statistical information derived from the accident reports as to the number, cause, and location of highway accidents, including information regarding the number of accidents involving injury to, death of, or property damage to a bicyclist or pedestrian; and

(3) provide an abstract of the statistical information for each preceding biennium to the governor and the legislature, with its conclusions and findings and recommendations for decreasing highway accidents and increasing highway safety.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 5, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 2, eff. Sept. 1, 2001.

Sec. 411.018. HAZARDOUS MATERIALS. (a) The director shall adopt rules relating to the reporting of all transportation incidents involving releases of reportable quantities of hazardous materials occurring on public roads or railroads that are not on a private industrial site. The rules must be consistent with federal rules relating to hazardous materials adopted under federal law.

The director may adopt all or part of the federal hazardous materials rules by reference.

(b) The department by rule shall require that all carriers of hazardous materials report all incidents involving a release of reportable quantities of hazardous materials to the department.

(c) The department shall serve as the central repository of statistical information relating to incidents involving release of hazardous materials.

(d) The department is responsible for the on-site coordination of all hazardous materials transportation emergencies. The director shall adopt necessary rules to implement this subsection.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 2.22(a), eff. Sept. 1, 1989.

Sec. 411.019. TOLL-FREE NUMBER. (a) The department shall provide a 24-hour toll-free telephone number for use by the public in reporting traffic offenses, including driving while intoxicated, suspected criminal activity, and traffic accidents and other emergencies.

(b) On receiving a report of an offense, the department shall contact the law enforcement agency of the jurisdiction where the reported suspected driver or incident was observed or shall dispatch department officers.

Added by Acts 1989, 71st Leg., ch. 1251, Sec. 1, eff. June 16, 1989.

Sec. 411.0195. PUBLIC COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the department and the department's procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(b) The director by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

(c) The department shall maintain a file on each written complaint filed with the department. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the department;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint.

(d) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and procedures relating to complaint investigation and resolution.

(e) The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 10, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 8, eff. Sept. 1, 1999.

Sec. 411.0196. ACCESS TO PROGRAMS. The department shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the department's programs.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 10, eff. Sept. 1, 1993.

Sec. 411.0197. ADVISORY OVERSIGHT COMMUNITY OUTREACH COMMITTEE. (a) The commission shall establish an Advisory Oversight Community Outreach Committee in the department and may adopt rules for the implementation and operation of the committee. The committee shall meet at the times and places specified by commission rule or at the call of the presiding officer or any two members.

(b) The commission shall appoint the members of the committee, which must include border crossing bridge owners, persons serving in the capacity of director of entities governing

ports of entry, community leaders, planning developers, mayors, or persons designated by mayors, of the major municipalities in the area of the border of this state and the United Mexican States, representatives of law enforcement agencies, and representatives of the general public.

(c) The commission shall designate the presiding officer of the committee from among the committee's members. The presiding officer serves at the will of the commission.

(d) The committee shall:

(1) document to the commission trade-related incidents involving department personnel;

(2) develop recommendations and strategies to improve community relations, department personnel conduct, and the truck inspection process at this state's ports of entry; and

(3) act as ombudsman between the department and the communities located and residents residing in the area of the border of this state and the United Mexican States and between the department and the department's personnel.

(e) In determining action to be taken on the information and recommendations received from the committee, the commission shall consider the importance of trade with the United Mexican States, the safety of the traveling public, preservation of the highway system, applicable federal laws and regulations, and the concerns expressed by communities.

(f) Not later than January 1 of each odd-numbered year the commission shall submit to the lieutenant governor, speaker of the house of representatives, and each other member of the legislature a report documenting the committee's recommendations and comments, incident reports received by the committee, and the actions taken by the commission and department to address those matters.

Added by Acts 2005, 79th Leg., ch. 1215, Sec. 1, eff. Sept. 1, 2005.

Sec. 411.020. PURCHASE OF FIREARM FROM DEPARTMENT BY OFFICER. (a) A commissioned officer of the department may purchase for an amount set by the department, not to exceed fair market value, a firearm issued to the officer by the department if the firearm is not listed as a prohibited weapon under Section 46.05, Penal Code, and if the firearm is retired by the department for replacement purposes.

(b) The department may adopt rules for the sale of a retired firearm to an officer of the department.

Added by Acts 1991, 72nd Leg., ch. 37, Sec. 1, eff. April 19, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.35, eff. Sept. 1, 1995.

Sec. 411.0201. REPRODUCTION OF RECORDS. (a) except as provided by Subsection (b), the department may photograph, microphotograph, or film any record in connection with the issuance of a driver's license or commercial driver's license and any record of any division of the department.

(b) None of the following may be photographed or filmed to dispose of the original record:

(1) an original fingerprint card;

(2) any evidence submitted in connection with a criminal case; or

(3) a confession or statement made by the defendant in a criminal case.

(c) The department may create original records in micrographic form on media, such as computer output microfilm.

(d) A photograph, microphotograph, or film of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

(e) The director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

(f) Certified records shall be furnished to any person who is authorized by law to receive them.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 3, eff. Sept. 1, 1997.

Sec. 411.0202. DISPOSAL OF RECORDS. (a) Unless otherwise

required by law and subject to Chapter 441, the department may dispose of or destroy records that the department determines are not required for the performance of the department's duties and functions.

(b) The department may dispose of or destroy a defendant's original fingerprint card if:

(1) the department has on file and retains another original fingerprint card for the defendant; or

(2) the defendant has attained the age of 80.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 7, eff. Sept. 1, 1995.

Sec. 411.0205. CRIME LABORATORY ACCREDITATION PROCESS. (a) In this section, "crime laboratory," "forensic analysis," and "physical evidence" have the meanings assigned by Article 38.35, Code of Criminal Procedure.

(b) The director by rule:

(1) shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings; and

(2) may modify or remove a crime laboratory exemption under this section if the director determines that the underlying reason for exemption no longer applies.

(b-1) As part of the accreditation process established and implemented under Subsection (b), the director may:

(1) establish minimum standards that relate to the timely production of a forensic analysis to the agency requesting the analysis and that are consistent with this article and code;

(2) validate or approve specific forensic methods or methodologies; and

(3) establish procedures, policies, and practices to improve the quality of forensic analyses conducted in this state.

(b-2) The director may require that a laboratory, facility, or entity required to be accredited under this section pay any costs incurred to ensure compliance with the accreditation process.

(c) The director by rule may exempt from the accreditation process established under Subsection (b) a crime laboratory conducting a forensic analysis or a type of analysis, examination, or test if the director determines that:

(1) independent accreditation is unavailable or inappropriate for the laboratory or the type of analysis, examination, or test performed by the laboratory;

(2) the type of analysis, examination, or test performed by the laboratory is admissible under a well-established rule of evidence or a statute other than Article 38.35, Code of Criminal Procedure;

(3) the type of analysis, examination, or test performed by the laboratory is routinely conducted outside of a crime laboratory by a person other than an employee of the crime laboratory; or

(4) the laboratory:

(A) is located outside this state or, if located in this state, is operated by a governmental entity other than the state or a political subdivision of the state; and

(B) was accredited at the time of the analysis under an accreditation process with standards that meet or exceed the relevant standards of the process established by the director under Subsection (b).

(d) The director may at any reasonable time enter and inspect the premises or audit the records, reports, procedures, or other quality assurance matters of a crime laboratory that is accredited or seeking accreditation under this section.

(e) The director may collect costs incurred under this section for accrediting, inspecting, or auditing a crime laboratory.

(f) If the director provides a copy of an audit or other report made under this section, the director may charge \$6 for the copy, in addition to any other cost permitted under Chapter 552 or a rule adopted under that chapter.

(g) Funds collected under this section shall be deposited in the state treasury to the credit of the state highway fund, and money deposited to the state highway fund under this section may be used only to defray the cost of administering this section or Subchapter G.

Added by Acts 2003, 78th Leg., ch. 698, Sec. 4, eff. June 20, 2003. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 3, eff. Sept. 1, 2005.

SUBCHAPTER B. TEXAS RANGERS

Sec. 411.021. COMPOSITION. The Texas Rangers are a major division of the department consisting of the number of rangers authorized by the legislature. The highest ranking officer of the Texas Rangers is responsible to and reports directly to the director. Officers are entitled to compensation as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 11, eff. Sept. 1, 1993.

Sec. 411.022. AUTHORITY OF OFFICERS. (a) An officer of the Texas Rangers is governed by the law regulating and defining the powers and duties of sheriffs performing similar duties, except that the officer may make arrests, execute process in a criminal case in any county and, if specially directed by the judge of a court of record, execute process in a civil case.

(b) An officer of the Texas Rangers who arrests a person charged with a criminal offense shall immediately convey the person to the proper officer of the county where the person is charged and shall obtain a receipt. The state shall pay all necessary expenses incurred under this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0221. QUALIFICATIONS. (a) To be commissioned as an officer of the Texas Rangers, a person must:

(1) have at least eight years of experience as a full-time, paid peace officer, including at least four years of experience in the department; and

(2) be a commissioned member of the department.

(b) The Texas Rangers is an equal employment opportunity employer; all personnel decisions shall be made without regard to race, color, sex, national origin, or religion.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Sec. 411.0222. ELIGIBILITY FOR PROMOTION. Except as provided by Section 411.0223, an officer of the Texas Rangers is eligible for promotion only if the officer has served in the next lower position for at least two years before the date of promotion.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Sec. 411.0223. APPOINTMENT OF HIGHEST-RANKING OFFICERS. (a) Except as provided by Subsection (c), an officer is eligible for appointment by the director to the highest rank of the Texas Rangers only if the officer has at least five years of supervisory experience as a commissioned member of the Texas Rangers.

(b) Except as provided by Subsection (c), an officer is eligible for appointment by the director to the second highest rank of the Texas Rangers only if the officer has at least four years of supervisory experience as a commissioned member of the Texas Rangers.

(c) If there are less than two qualified officers for appointment to the highest rank or the second highest rank of the Texas Rangers, the director may appoint an officer to the highest rank or the second highest rank only if the officer has at least two years of supervisory experience as a commissioned member of the Texas Rangers.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Sec. 411.023. SPECIAL RANGERS. (a) The commission may appoint as special rangers honorably retired commissioned officers of the department and not more than 300 other persons.

(b) A special ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle. A special ranger is not connected with a ranger company or uniformed unit of the department.

(c) Before issuance of a commission to a special ranger the person shall enter into a good and sufficient bond executed by a surety company authorized to do business in the state in the amount of \$2,500, approved by the director, and indemnifying all persons against damages resulting from an unlawful act of the special ranger.

(d) A special ranger is not entitled to compensation from the state for service as a special ranger.

(e) A special ranger commission expires January 1 of the first odd-numbered year after appointment. The director may revoke

a special ranger commission at any time for cause.

(f) The commission shall authorize a badge for persons appointed as special rangers under this section that is distinct in appearance from the badge authorized for special Texas Rangers under Section 411.024 and from any badge issued to a Texas Ranger. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 9, eff. Sept. 1, 1999.

Sec. 411.024. SPECIAL TEXAS RANGERS. (a) The commission may appoint as a special Texas Ranger an honorably retired or retiring commissioned officer of the department whose position immediately preceding retirement is an officer of the Texas Rangers.

(b) A special Texas Ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special Texas Ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle. A special Texas Ranger is not connected with a ranger company or uniformed unit of the department.

(c) Before issuance of a commission to a special Texas Ranger the person shall enter into a good and sufficient bond executed by a surety company authorized to do business in the state in the amount of \$2,500, approved by the director, and indemnifying all persons against damages resulting from an unlawful act of the special Texas Ranger.

(d) A special Texas Ranger is not entitled to compensation from the state for service as a special Texas Ranger.

(e) A special Texas Ranger commission expires January 1 of the first odd-numbered year after appointment. The commission may revoke the commission of a special Texas Ranger who commits a violation of a rule of the department for which an active officer of the Texas Rangers would be discharged.

(f) The commission shall authorize a badge for persons appointed as special Texas Rangers under this section that is distinct in appearance from the badge authorized for special rangers under Section 411.023.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 10, eff. Sept. 1, 1999.

SUBCHAPTER C. TEXAS HIGHWAY PATROL

Sec. 411.031. COMPOSITION. The Texas Highway Patrol is a division of the department consisting of the chief patrol officer, the number of captains, sergeants, and privates authorized by the legislature, and administrative and clerical help as the commission determines. A person's literary attainment does not preclude the person's appointment as a private if the person is otherwise qualified. The chief patrol officer is the executive officer of the patrol. Officers are entitled to compensation as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.032. POWERS AND DUTIES OF OFFICERS. In addition to the powers and duties provided by law for the officers, noncommissioned officers, and enlisted persons of the Texas Highway Patrol, they have the powers and authority provided by law for members of the Texas Rangers force.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. ADMINISTRATIVE DIVISION

Sec. 411.041. COMPOSITION. The administrative division of the department consists of the bureaus of identification and records, communications, intelligence, and training. The director, with the advice and consent of the commission, shall employ chiefs, experts, operators, instructors, and assistants as necessary for the operation of this division and its bureaus.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.042. BUREAU OF IDENTIFICATION AND RECORDS. (a) The director shall appoint, with the advice and consent of the commission, a chief of the bureau of identification and records to be the executive officer of the bureau. The chief and at least one assistant must be recognized identification experts with at least three years' actual experience.

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including a statistical breakdown of those offenses in which family violence was involved;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense; and

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders. Information in the law enforcement information system relating to an active protective order shall include:

(A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C) the name and county of residence of the person protected by the order;

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code;

(F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed; and

(G) the date the order expires.

(c) The bureau chief shall offer assistance and, if practicable, instruction to sheriffs, chiefs of police, and other peace officers in establishing efficient local bureaus of identification in their districts.

(d) The department may charge each person and charge each entity or agency that is not primarily a criminal justice agency a fee for processing inquiries for information that is not criminal history record information regarding a person. A person, entity, or agency that receives information must be entitled to receive the information under state or federal statutes, rules, regulations, or case law. The department may charge actual costs for processing all inquiries under this section.

(e) The department shall deposit all fees collected under this section in the operators and chauffeurs license fund.

(f) The department may keep any record or other information submitted to the department under this section, unless otherwise prohibited by law.

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records;

(3) reports of criminal history information submitted to the department; and

(4) active protective orders issued under Chapter 71, Family Code, and reporting procedures that ensure that information relating to the issuance of an active protective order and to the dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1989, 71st Leg., ch. 490, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1225, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 5.01, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 7.03, 7.04, eff. Dec. 1, 1991; Acts 1993, 73rd Leg., ch. 790, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 324, Sec. 2, 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 974, Sec. 38, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.751, eff. Sept. 1, 2001.

Sec. 411.0421. INFORMATION REGARDING FRAUDULENT USE OF IDENTIFICATION. (a) The department shall create a record of each individual who:

(1) in conjunction with the attorney representing the state in the prosecution of felonies in the county in which the individual resides and the sheriff of that county or, if the individual is not a resident of a county in this state, the attorney and sheriff in a county that the individual frequents, signs a declaration that the individual's identity has been used by another person to frustrate proper law enforcement without the individual's consent; and

(2) files that declaration with the department.

(b) A declaration filed under this section must include:

(1) the individual's name, social security number, driver's license number, date of birth, and other identifying data requested by the department;

(2) a statement that the individual's name, social security number, driver's license number, date of birth, or other data has been used by another person to frustrate proper law enforcement; and

(3) a name, word, number, letter, or combination of 30 or fewer characters designated by the individual as a unique password to verify the individual's identity.

(c) On receipt of a declaration under this section, the department shall create a record of the individual's identity, including a record of the individual's unique password, in the criminal history record information maintained by the department under Subchapter F. The department shall ensure that this record, including the unique password, is available online to any entity authorized to receive information from the department under Subchapter F.

Added by Acts 1999, 76th Leg., ch. 1334, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 945, Sec. 4, eff. June 14, 2001.

Sec. 411.043. BUREAU OF COMMUNICATIONS. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of communications.

(b) The bureau of communications shall:

(1) provide for the rapid exchange between law enforcement agencies of the state, counties, municipalities, other states, and the federal government of information concerning the commission of crimes and the detection of violators of the law; and

(2) establish and operate, in coordination with state, county, and municipal law enforcement agencies, a state roads blockade system.

(c) If funds are provided, the bureau of communications may install and operate a police radio broadcasting system for broadcasting information concerning the activities of violators of the law and for directing the activities and functions of the law enforcement agencies of the state, counties, and municipalities. The bureau shall cooperate with county and municipal police authorities and police radio stations in this state and other states.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.044. BUREAU OF INTELLIGENCE. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of intelligence.

(b) The bureau of intelligence shall:

(1) accumulate and analyze, with the aid of the other department divisions and bureaus, information of crime activities in the state and make the information available for use of the department and county and municipal law enforcement agencies; and

(2) aid in the detection and apprehension of violators of the law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.045. BUREAU OF TRAINING. (a) The director, with the advice and consent of the commission, shall appoint the chief of

the bureau of training. The chief must have substantial experience in law enforcement and in instruction of law enforcement officers.

(b) The bureau of training shall:

(1) establish and operate schools for training department personnel in their duties and functions;

(2) establish and operate schools for training county and municipal police officers who are selected to attend the schools by the authorities of the law enforcement agencies that employ them; and

(3) establish and carry out a comprehensive plan for the education of citizens of this state in matters of public safety and crime prevention and detection.

(c) The chief of the bureau of training shall organize schools for department members and other peace officers and give instruction in the schools.

(d) The adjutant general shall provide, for use of the bureau of training in conducting its training schools, suitable buildings, land, and state-owned equipment at Camp Mabry in Austin. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.046. HATE CRIME REPORTING. (a) The bureau of identification and records shall establish and maintain a central repository for the collection and analysis of information relating to crimes that are motivated by prejudice, hatred, or advocacy of violence, including, but not limited to, incidents for which statistics are or were kept under Public Law No. 101-275, as that law existed on July 3, 1996. On establishing the repository, the department shall develop a procedure to monitor, record, classify, and analyze information relating to incidents directed against persons and property that are apparently motivated by the factors listed in this subsection.

(b) Local law enforcement agencies shall report offenses described by Subsection (a) in the form and manner and at regular intervals as prescribed by rules adopted by the department. The department shall summarize and analyze information received under this subsection and file an annual report with the governor and legislature containing the summary and analysis.

(c) The department shall make information, records, and statistics collected under this section available to any local enforcement agency, political subdivision, or state agency to the extent the information is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. This subsection may not be construed to limit access to information, records, or statistics which access is permitted by other law. Dissemination of the names of defendants and victims is subject to all confidentiality requirements otherwise imposed by law.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 21A.01, eff. Oct. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 11, eff. Sept. 1, 1999.

Sec. 411.047. REPORTING RELATED TO CONCEALED HANDGUN INCIDENTS. (a) The department may maintain statistics on its website related to responses by law enforcement agencies to incidents in which a person licensed to carry a handgun under Subchapter H is convicted of an offense only if the offense is prohibited under Subchapter H or under Title 5, Chapter 29, Chapter 46, or Section 30.02, Penal Code.

(b) Such statistics shall be drawn and reported annually from the Department of Public Safety computerized criminal history file on persons 21 years of age and older and shall be compared in numerical and graphical format to all like offenses committed in the state for the reporting period as a percentage of the total of such reported offenses.

(c) The department by rule shall adopt procedures for local law enforcement to make reports to the department described by Subsection (a).

Added by Acts 1995, 74th Leg., ch. 229, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 10.06, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 12, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1146, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.048. THREATS AGAINST PEACE OFFICERS AND DETENTION OFFICERS. (a) In this section:

(1) "Criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(2) "Peace officer" has the meaning assigned by Section 1.07, Penal Code.

(3) "Detention officer" means a person who is employed to ensure the safekeeping of prisoners and the security of a municipal or county jail.

(b) The bureau of identification and records shall establish and maintain a central index in the law enforcement information system maintained by the department to:

(1) collect and disseminate information relating to an individual's expression of intent to inflict serious bodily injury or death on a peace officer or detention officer; and

(2) alert a peace officer or detention officer of an expression of intent to inflict serious bodily injury or death on the officer.

(c) A criminal justice agency, after making each determination required under Subsection (d), shall immediately enter into the information system an electronic report of an individual who expresses an intent to inflict serious bodily injury or death on a peace officer or detention officer. The agency shall enter the information in the form and manner provided by rules adopted by the director.

(d) Before entering information collected under this section into the information system, a criminal justice agency must determine that the report described by Subsection (c):

(1) is not from an anonymous source; and

(2) consists of an expression of intent to inflict serious bodily injury or death on a peace officer or detention officer.

(e) On proper inquiry into the information system, the department shall disseminate information collected under this section to a criminal justice agency as reasonably necessary to protect the safety of a peace officer or detention officer. The criminal justice agency may use information disseminated under this subsection in the manner provided by rules adopted by the director.

(f) The department shall promptly respond to a request to disclose information collected under this section by an individual who is the subject of the information.

(g) An individual who is the subject of information collected under this section may request that the director, the director's designee, or a court review the information to determine whether the information complies with rules adopted by the director. The review shall be conducted using the same procedure for reviewing criminal information collected under Chapter 61, Code of Criminal Procedure.

(h) A peace officer, detention officer, or criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under this section in accordance with rules adopted by the director.

(i) The director may adopt rules to implement and enforce this section. Any rule adopted by the director under this section must comply with the provisions of the Code of Federal Regulations, Title 28, Part 23, as it applies to criminal intelligence systems. Added by Acts 2001, 77th Leg., ch. 474, Sec. 3, eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 557, Sec. 1, 2, eff. Sept. 1, 2005.

Sec. 411.050. CRIME STATISTIC MAPPING. The department, in conjunction with Texas State University--San Marcos, may annually produce maps of the state that include information regarding crime statistics correlated with the various regions of the state. Added by Acts 1999, 76th Leg., ch. 1189, Sec. 13, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 386, Sec. 10, eff. Sept. 1, 2003.

Sec. 411.051. ANALYSIS OF INFORMATION IDENTIFYING PERSONS COMMITTING OR SUSPECTED OF COMMITTING CERTAIN PROPERTY OFFENSES AGAINST ELDERLY INDIVIDUALS. (a) This section applies to an offense under Chapter 31 or 32, Penal Code, or any other offense under that code involving an intent to steal or defraud if the offense was committed against an elderly individual as defined by Section 22.04(c), Penal Code.

(b) For purposes of this section, the victim's status as an elderly individual is determined according to the victim's age at the time of the offense.

(c) A law enforcement agency that investigates an offense described by Subsection (a) shall report the investigation to the department in the form and manner and at regular intervals as prescribed by rules adopted by the department. The rules must require submission of the original investigative report and any

supplemental investigative report containing new, significant information.

(d) To identify a person committing or suspected of committing an offense described by Subsection (a) or a victim of an offense described by that subsection, the department shall analyze information received under this section and any other corresponding information possessed by the department.

(e) The department shall make the analysis required by this section available to any local law enforcement agency, political subdivision, or state agency to the extent the analysis is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. This subsection may not be construed to enable direct access by a person to information analyzed by the department under this section if the person does not otherwise have direct access to that information. Dissemination of the analysis required by this section is subject to all confidentiality requirements imposed by other law.

Added by Acts 2001, 77th Leg., ch. 789, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER E. CAPITOL COMPLEX

Sec. 411.061. DEFINITION. (a) In this subchapter, "Capitol Complex" means the following property that is located in Austin, Texas, to the extent the property is owned by or under the control of the state:

(1) the area bounded on the north by the inside curb of Martin Luther King, Jr., Boulevard, on the east by the outside curb of Trinity Street, on the south by the outside curb of 10th Street, and on the west by the outside curb of Lavaca Street;

(2) the William P. Clements State Office Building located at 300 West 15th Street; and

(3) other locations under the jurisdiction of the capitol police district as may be approved by the director.

(b) The provisions of this subchapter do not apply to the property or parking facility under the management and control of the Texas Employment Commission and located within the bounds set forth in Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 270, Sec. 3, eff. May 26, 1997.

Sec. 411.062. LAW ENFORCEMENT AND SECURITY AUTHORITY. (a) The department has primary responsibility for law enforcement and security services on the Capitol Complex.

(b) Subsection (a) does not prohibit the department from requesting or receiving assistance from another law enforcement agency.

(c) This section does not prohibit a peace officer who is not a member of the department from exercising the officer's authority on the Capitol Complex in an emergency or in a situation where the officer reasonably believes that immediate action is necessary.

(d) The department shall adopt rules relating to security of persons and access to and protection of the grounds, public buildings, and property of the state within the Capitol Complex, except that public use of the capitol, the capitol extension, the capitol grounds, and the General Land Office building shall be governed by the State Preservation Board.

(e) The department may enforce the rules of the State Preservation Board, adopted under Section 443.018.

(f) The department and the City of Austin shall execute an interlocal cooperation agreement that defines the respective responsibilities of the department and the city for traffic and parking enforcement and general security in the Capitol Complex, including private property within the boundaries of the complex.

(g) The commission may authorize the director to impose within the Capitol Complex measures the director determines to be necessary to protect the safety and security of persons and property within the complex.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 270, Sec. 4, eff. May 26, 1997.

Sec. 411.063. RULES RELATING TO PARKING AND VEHICLES. (a) The State Preservation Board shall adopt rules for the safe movement and the parking of vehicles in the Capitol Complex. The department shall administer and enforce the rules adopted by the preservation board and shall administer and enforce this subchapter. This subsection does not affect the authority of the department to adopt rules under Section 411.067.

- (b) Rules adopted under this section may:
- (1) regulate the type, flow, and direction of vehicular traffic;
 - (2) designate, mark, and assign areas and spaces for parking for elected state officials, chief executives and employees of state agencies located in the Capitol Complex, state-owned vehicles, business vehicles, and visitors to the Capitol Complex;
 - (3) establish a system of registration for vehicle identification;
 - (4) prohibit or restrict the use of areas and spaces for parking;
 - (5) establish a reasonable fee for parking in a parking space on a parking lot or in a parking garage that is located in the Capitol Complex, other than a space in the capitol driveway or capitol extension garage; and
 - (6) provide for the towing and storing, at the expense of the owner, of a vehicle parked in violation of a rule.

(c) Rules that govern parking in the parking spaces in the capitol driveways and the parking lots and parking garages near the capitol, to the extent that parking in such places is not otherwise regulated by the State Preservation Board, shall provide for:

- (1) assigning and marking reserved parking spaces for the unrestricted use of the governor, lieutenant governor, speaker of the house of representatives, and secretary of state;
- (2) when the legislature is in session, assigning and marking reserved parking spaces requested by each house of the legislature for the unrestricted use of members and administrative staff of the legislature; and
- (3) when the legislature is not in session, assigning and marking parking spaces requested by each house of the legislature for the use of members and administrative staff of the legislature.

(d) Except as provided by Section 443.015, the department shall remit to the comptroller for deposit to the credit of State Parking Fund No. 125 any fee collected for the parking of a vehicle in the Capitol Complex. Money in the fund may be appropriated only to the department for the operation, maintenance, and improvement of state parking facilities on, and for security in, the Capitol Complex.

(e) To the extent that the City of Austin on January 1, 1997, operated and maintained parking meters along either side of the streets forming the perimeter of the Capitol Complex, the city is entitled to continue to operate, maintain, and receive the revenue from those meters, except that the city may not operate or maintain along those streets meters that accept only quarters. Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 270, Sec. 5, eff. May 26, 1997; Acts 2001, 77th Leg., ch. 1462, Sec. 6, eff. June 17, 2001.

Sec. 411.064. ASSISTANCE OF TEXAS DEPARTMENT OF TRANSPORTATION OR GENERAL SERVICES COMMISSION. (a) On request of the department, the Texas Department of Transportation and the General Services Commission shall:

- (1) assist the department in the marking and designation of parking lots, parking garages, and parking spaces;
- (2) maintain the painting of lines and curb markings; and
- (3) furnish and erect direction and information signs.

(b) The department may recover the cost of providing the services described in Subsection (a) from the agency or agencies for which the service was provided. To the extent that either the General Services Commission or the Texas Department of Transportation provides or assists in providing the services described in Subsection (a), that agency shall be reimbursed by the department from its funds or the funds received from another agency under this subsection.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.

Sec. 411.0645. TRANSPORTATION PLANNING COMMITTEE. (a) The department, the City of Austin, the Capital Metropolitan Transportation Authority, the General Services Commission, the State Preservation Board, and The University of Texas at Austin shall each designate a representative to a committee established for the purpose of coordinating transportation in and adjacent to the Capitol Complex. The representative of the department shall convene the initial meeting of the committee, and the committee shall elect officers and meet as decided by the committee.

(b) The committee may develop and recommend to the agencies represented agreements and memoranda of understanding relating to transportation in and adjacent to the Capitol Complex, including agreements or understandings relating to parking, vehicle traffic, and the location of light rail or other mass transit terminals and facilities in that area.

Added by Acts 1997, 75th Leg., ch. 270, Sec. 6, eff. May 26, 1997.

Sec. 411.065. OFFENSES. (a) A person commits an offense if the person violates a rule of the department adopted under Section 411.062 or a rule of the State Preservation Board adopted under Section 411.063.

(b) An offense under this section is a Class C misdemeanor. Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 270, Sec. 7, eff. May 26, 1997; Acts 2001, 77th Leg., ch. 1462, Sec. 7, eff. June 17, 2001.

Sec. 411.066. JURISDICTION. The municipal court of a municipality and the justice courts of a county in which an offense under Section 411.065 was committed have concurrent original jurisdiction over such an offense.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.

Sec. 411.067. ADMINISTRATIVE PARKING VIOLATIONS. (a) The department shall have authority to adopt rules for the assessment of an administrative fine of \$10 for violations of the parking rules adopted under Section 411.063. Notwithstanding the provisions of Sections 411.065 and 411.066, the department may in its discretion issue an administrative citation for a parking violation.

(b) Rules adopted under this section shall:

(1) establish a system for enforcement of administrative citations including but not limited to assessment of a late fee not to exceed \$2 and towing, impoundment, or immobilization of vehicles; and

(2) provide for a procedure of administrative review within the capitol police district and, on request of the person assessed an administrative fine, further judicial review by the department filing the appropriate citation or complaint in a court of competent jurisdiction, as provided in Section 411.066.

(c) The administrative review provided for in Subsection (b) shall not be considered a contested case under Chapter 2001 or Chapter 2003.

(d) The department shall remit to the comptroller for deposit in the general revenue fund any administrative fine received under this section. Such revenues may be appropriated only to the department for capitol police security and parking.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (76), eff. Sept. 1, 1995.

SUBCHAPTER F. CRIMINAL HISTORY RECORD INFORMATION

Sec. 411.081. APPLICATION OF SUBCHAPTER. (a) This subchapter does not apply to criminal history record information that is contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry, including police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public;

(3) public judicial, administrative, or legislative proceedings;

(4) court records of public judicial proceedings;

(5) published judicial or administrative opinions; or

(6) announcements of executive clemency.

(b) This subchapter does not prohibit a criminal justice agency from disclosing to the public criminal history record information that is related to the offense for which a person is involved in the criminal justice system.

(c) This subchapter does not prohibit a criminal justice agency from confirming previous criminal history record information to any person on specific inquiry about whether a named person was arrested, detained, indicted, or formally charged on a specified date, if the information disclosed is based on data excluded by Subsection (b).

(d) Notwithstanding any other provision of this subchapter, if a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, subsequently receives a discharge and dismissal under

Section 5(c), Article 42.12, and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. Except as provided by Subsection (e), a person may petition the court under this subsection regardless of whether the person has been previously placed on deferred adjudication community supervision for another offense. After notice to the state and a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies, for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order. A person may petition the court that placed the person on deferred adjudication for an order of nondisclosure on payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The payment may be made only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the second anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code; or

(3) the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(e) A person is entitled to petition the court under Subsection (d) only if during the applicable period described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to petition the court under Subsection (d) if the person has been previously convicted or placed on deferred adjudication for:

(1) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(2) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, or 42.072, Penal Code; or

(4) any other offense involving family violence, as defined by Section 71.004, Family Code.

(f) For purposes of Subsection (d), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision the judge dismissed the proceedings and discharged the person.

Text of subsec. (g) as amended by Acts 2005, 79th Leg., ch. 177, Sec. 3

(g) When an order of nondisclosure is issued under this subsection, the clerk of the court shall send to the Crime Records Service of the Department of Public Safety a copy of the order by:

(1) certified mail, return receipt requested; or

(2) if requested in writing by the petitioner, secure electronic mail or facsimile transmission.

Text of subsec. (g) as amended by Acts 2005, 79th Leg., ch. 1309, Sec. 3

(g) When an order of nondisclosure is issued under this section, the clerk of the court shall send a copy of the order by

certified mail, return receipt requested, to the Crime Records Service of the Department of Public Safety. Not later than 10 business days after receipt of the order, the Department of Public Safety shall seal any criminal history record information maintained by the department that is the subject of the order. The department shall also send a copy of the order by mail or electronic means to all:

(1) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

(2) central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order; and

(3) private entities that purchase criminal history record information from the department.

Text of subsec. (g-1) as added by Acts 2005, 79th Leg., ch. 177,
Sec. 3

(g-1) The Department of Public Safety shall send a copy of the order by mail or secure electronic mail or facsimile transmission to all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state, and to all central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order.

Text of subsec. (g-1) as added by Acts 2005, 79th Leg., ch. 1309,
Sec. 3

(g-1) Not later than 30 business days after receipt of an order from the Department of Public Safety under Subsection (g), an individual or entity described by Subsection (g)(1) shall seal any criminal history record information maintained by the individual or entity that is the subject of the order.

(g-2) A person whose criminal history record information has been sealed under this section is not required in any application for employment, information, or licensing to state that the person has been the subject of any criminal proceeding related to the information that is the subject of an order issued under this section.

(h) The clerk of a court that collects a fee under Subsection (d) shall remit the fee to the comptroller not later than the last day of the month following the end of the calendar quarter in which the fee is collected, and the comptroller shall deposit the fee in the general revenue fund. The Department of Public Safety shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:

(1) the number of petitions for nondisclosure and orders of nondisclosure received by the department in each of the previous two years;

(2) the actions taken by the department with respect to the petitions and orders received;

(3) the costs incurred by the department in taking those actions; and

(4) the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense committed after the order was issued.

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

(1) the State Board for Educator Certification;

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;

(3) the Texas State Board of Medical Examiners;

(4) the Texas School for the Blind and Visually Impaired;

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Board of Nurse Examiners;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and loan commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission; and
- (23) the Department of Aging and Disability Services.

(j) If the Department of Public Safety receives information indicating that a private entity that purchases criminal history record information from the department has been found by a court to have committed five or more violations of Section 552.1425 by compiling or disseminating information with respect to which an order of nondisclosure has been issued, the department may not release any criminal history record information to that entity until the first anniversary of the date of the most recent violation.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1236, Sec. 4, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 177, Sec. 3, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 1309, Sec. 3, eff. Sept. 1, 2005.

Sec. 411.082. DEFINITIONS. In this subchapter:

(1) "Administration of criminal justice" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(2) "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) "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.

(4) "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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.190, eff. Sept. 1, 1997.

Sec. 411.083. DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION. (a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter, may not be disseminated by the department.

(b) The department shall grant access to criminal history record information to:

(1) criminal justice agencies;

(2) noncriminal justice agencies authorized by

federal statute or executive order or by state statute to receive criminal history record information;

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

(4) a person working on a research or statistical project that:

(A) is funded in whole or in part by state funds;
or

(B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department;

(5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated;

(6) a county or district clerk's office; and

(7) the Office of Court Administration of the Texas Judicial System.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4) or (b)(5) only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(6) only to the extent necessary for a county or district clerk to perform a duty imposed by law to collect and report criminal court disposition information. Criminal history record information disseminated to a clerk under Subsection (b)(6) may be used by the clerk only to ensure that information reported by the clerk to the department is accurate and complete. The dissemination of information to a clerk under Subsection (b)(6) does not affect the authority of the clerk to disclose or use information submitted by the clerk to the department. The department may disseminate criminal history record information under Subsection (b)(7) only to the extent necessary for the office of court administration to perform a duty imposed by law to compile court statistics or prepare reports. The office of court administration may disclose criminal history record information obtained from the department under Subsection (b)(7) in a statistic compiled by the office or a report prepared by the office, but only in a manner that does not identify the person who is the subject of the information.

(d) The department is not required to release or disclose criminal history record information to any person that is not in compliance with rules adopted by the department under this subchapter or rules adopted by the Federal Bureau of Investigation that relate to the dissemination or use of criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 474, Sec. 4, eff. Sept. 1, 2001.

Sec. 411.084. USE OF CRIMINAL HISTORY RECORD INFORMATION. (a) Criminal history record information obtained from the department under this subchapter:

(1) is for the exclusive use of the authorized recipient of the information; and

(2) may be disclosed or used by the recipient only if, and only to the extent that, disclosure or use is authorized or directed by:

(A) this subchapter;

(B) another statute;

(C) a rule adopted under a statute; or

(D) an order of a court of competent jurisdiction.

(b) Notwithstanding Subsection (a) or any other provision in this subchapter, criminal history record information obtained

from the Federal Bureau of Investigation may be released or disclosed only to a governmental entity or as authorized by federal statute, federal rule, or federal executive order.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.085. UNAUTHORIZED OBTAINING, USE, OR DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION; PENALTY. (a) A person commits an offense if the person knowingly or intentionally:

(1) obtains criminal history record information in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information;

(2) provides a person with a copy of the person's criminal history record information obtained from the department; or

(3) violates a rule of the department adopted under this subchapter.

(b) An offense under Subsection (a) is a Class B misdemeanor, except as provided by Subsection (c).

(c) An offense under Subsection (a) is a felony of the second degree if the person:

(1) obtains, uses, or discloses criminal history record information for remuneration or for the promise of remuneration; or

(2) employs another person to obtain, use, or disclose criminal history record information for remuneration or for the promise of remuneration.

(d) The department shall provide each person who applies for access to criminal history record information maintained by the department with a copy of this section.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.086. RULES. (a) The department shall adopt rules to administer this subchapter.

(b) Rules adopted by the department:

(1) shall provide for a uniform method of requesting criminal history record information from the department;

(2) may require a person requesting criminal history record information about an individual to submit to the department one or more of the following:

(A) the complete name, race, and sex of the individual;

(B) any known alias name of the individual;

(C) a complete set of the individual's fingerprints;

(D) a recent photograph of the individual;

(E) any known identifying number of the individual, including social security number, FBI number, driver's license number, or state identification number;

(F) the individual's date of birth;

(G) any known alias dates of birth of the individual; or

(H) any other information the department determines is necessary to identify the individual or the record;

(3) shall provide for the methods and formats for dissemination of criminal history record information; and

(4) shall provide security measures and policies that are designed to guard against unauthorized release or dissemination of criminal history record information that is maintained or disseminated by the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.087. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION MAINTAINED BY FEDERAL BUREAU OF INVESTIGATION OR LOCAL CRIMINAL JUSTICE AGENCY. (a) A person, agency, department, political subdivision, or other entity that is authorized by this subchapter to obtain from the department criminal history record information maintained by the department that relates to another person is authorized to:

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

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

(b) Any restriction or limitation in this subchapter on

criminal history record information that a person, agency, department, political subdivision, or other entity is entitled to obtain from the department applies equally to the criminal history record information that the person, agency, department, political subdivision, or other entity is entitled to obtain from the identification division of the Federal Bureau of Investigation or other criminal justice agency.

(c) Subsection (a) does not authorize a person, agency, department, political subdivision, or other entity to obtain criminal history record information from the identification division of the Federal Bureau of Investigation if dissemination of criminal history record information by the division is prohibited by federal law, executive order, or rule.

(d) A person, agency, department, political subdivision, or other entity that is not a criminal justice agency is entitled to obtain criminal history record information from the Federal Bureau of Investigation only if:

(1) the requestor submits a complete set of the individual's fingerprints and other identifying information and pays any fee required or approved by the bureau;

(2) no disqualifying record or information from a state or local criminal justice agency is known to the requestor; and

(3) the request is not for the purpose of discriminating against a person because of the person's race, sex, age, disability, religion, color, or national origin.

(e) Repealed by Acts 1995, 74th Leg., ch. 248, Sec. 1, eff. Sept. 1, 1995.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 248, Sec. 1, eff. Sept. 1, 1995.

Sec. 411.088. FEES. (a) The department may charge a person that is not primarily a criminal justice agency a fee for processing inquiries for criminal history record information. The department may charge:

(1) a fee of \$10 for each inquiry for criminal history record information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which event the fee is \$1;

(2) a fee of \$15 for each inquiry for criminal history record information on a person that is processed on the basis of a fingerprint comparison search; and

(3) except as provided by Subsection (b), actual costs for processing all other information inquiries.

(b) The department may not charge for processing an electronic inquiry for information described as public information under Article 62.005, Code of Criminal Procedure, made through the use of the Internet.

(c) The fee a municipality pays under Subsection (a)(1) for an inquiry submitted electronically or by magnetic media may be used to allow the department to make the information available through electronic means under Section 411.129.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 747, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 791, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1024, Sec. 2, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(40), eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 1008, Sec. 2.09, eff. Sept. 1, 2005.

Sec. 411.089. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CRIMINAL JUSTICE AGENCY. (a) A criminal justice agency is entitled to obtain from the department any criminal history record information maintained by the department about a person.

(b) Criminal history record information obtained under Subsection (a) may be released by the criminal justice agency:

(1) to any other criminal justice agency, if such release is for a criminal justice purpose; and

(2) through audio response terminals and radio devices, whether digital or voice, if such dissemination is in accordance with rules promulgated by the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

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 a certificate under Subchapter B, Chapter 21, Education Code.

(b) Criminal history record information obtained by the board under Subsection (a):

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

(2) may not be released to any person except on court order or with the consent of the applicant for a certificate; and

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

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 260, Sec. 27, eff. May 30, 1995.

Sec. 411.091. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION. (a) The Texas Alcoholic Beverage Commission is entitled to obtain from the department criminal history record information maintained by the department that the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code.

(b) Criminal history record information obtained by the commission under Subsection (a)(1) may be used only for the enforcement and administration of the Alcoholic Beverage Code.

(c) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 14.753, eff. Sept. 1, 2001.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.752, 14.753, eff. Sept. 1, 2001.

Sec. 411.0915. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION OF POLITICAL SUBDIVISIONS: TEXAS ALCOHOLIC BEVERAGE COMMISSION. The commission is entitled to receive criminal history record information, without charge, from any political subdivision of this state. Information obtained may only be used by the commission for the enforcement of the Alcoholic Beverage Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.092. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BANKING COMMISSIONER. (a) The banking 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 a license, charter, or other authority granted or issued by the banking commissioner under:

(A) Subtitle A, Title 3, Finance Code, or any successor to that law; or

(B) Chapter 152, 153, or 154, Finance Code; or

(2) a principal of an applicant under Subdivision (1).

(b) Criminal history record information obtained by the commissioner under Subsection (a), except on court order or as provided by Subsection (c), may not be released or disclosed to any person.

(c) The commissioner is not prohibited from disclosing to the individual who is the subject of the information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 194, Sec. 1, eff. May 23, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 7.59, eff. Sept. 1, 1999.

Sec. 411.093. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF LICENSING AND REGULATION. The Texas Department of Licensing and Regulation is entitled to obtain from the department criminal history record information maintained the department that relates to a person who is:

(1) an applicant for a license, certificate, registration, title, or permit issued by the department; or

(2) the holder of a license, certificate, registration, title, or permit issued by the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 2, eff. Sept. 1, 2003.

Sec. 411.094. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INSTITUTION OF HIGHER EDUCATION. (a) In this section:

(1) "Institution of higher education":

(A) has the meaning assigned by Section 61.003, Education Code; or

(B) means a private institution of higher

education that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(2) "Security-sensitive position" means employment in an institution of higher education held by an employee who:

- (A) handles currency;
- (B) has access to a computer terminal;
- (C) has access to a master key; or
- (D) works in a location designated as a security-sensitive area.

(b) An institution of higher education 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 security-sensitive position.

(c) Criminal history record information obtained by an institution of higher education under Subsection (b) may be used only for the purpose of evaluating applicants for employment in security-sensitive positions.

(d) Criminal history record information received by an institution of higher education under Subsection (b) may not be released or disclosed to any person except on court order.

(e) After the expiration of the probationary term of the individual's employment, all criminal history record information obtained about an individual under Subsection (b) shall be destroyed by the chief of police of the institution of higher education.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 3, eff. Sept. 1, 2003.

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 that relates to a person who is an applicant for or holder of a license under Chapter 342, 348, or 371, Finance Code

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(1). Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.60, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1235, Sec. 24, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 296, Sec. 13(1), eff. Sept. 1, 2003.

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 pertains to a person who is:

- (1) appointed to the commission;
- (2) an applicant for employment by the commission; or
- (3) an applicant for a license under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in a hearing conducted by the commission, on court order, or with the consent of the applicant.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SCHOOL DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION SHARED SERVICES ARRANGEMENT. (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, or shared services arrangement 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; or
- (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.

(b) A school district, charter school, private school,

regional education service center, or education shared services arrangement is entitled to obtain from the department, no more than twice each year, 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 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) Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement under Subsection (a), (b), or (c) may not be released or disclosed to any person, other than the individual who is the subject of the information, the Texas Education Agency, the State Board for Educator Certification, or the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2).

(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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 260, Sec. 27, eff. May 30, 1995; Acts 1997, 75th Leg., ch. 1438, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1504, Sec. 33, eff. Sept. 1, 2001.

Sec. 411.098. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED. (a) The Texas School for the Blind and Visually Impaired is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

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

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, volunteer, student teacher, educational intern, or person who performs ongoing educational projects at the school with a copy of respective criminal history record information obtained from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency.

(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 or accept for placement, as applicable, with regard to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, or volunteer

positions whose employment or potential employment or volunteer position with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1341, Sec. 6, eff. Sept. 1, 1997.

Sec. 411.0985. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION FOR THE BLIND. (a) The Texas Commission for the Blind 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 employment with the commission.

(b) Criminal history record information obtained by the Texas Commission for the Blind under Subsection (a) may be used only to evaluate an applicant for employment with the commission.

(c) The Texas Commission for the Blind may not release or disclose information obtained under Subsection (a) except on court order.

(d) After the expiration of any probationary term of the person's employment, the Texas Commission for the Blind shall destroy all criminal history record information obtained under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 213, Sec. 10, eff. Sept. 1, 1999.

Sec. 411.099. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF MEDICAL EXAMINERS. The Texas State Board of 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 under Subtitle B, Title 3, Occupations Code; or

(2) the holder of a license under that subtitle.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.754, eff. Sept. 1, 2001.

Sec. 411.100. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BOARD OF LAW EXAMINERS. (a) The Board of Law Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant to take a bar examination.

(b) Criminal history record information obtained by the board under Subsection (a) may not be released or disclosed to any person, except on court order or with consent of the applicant.

(c) Immediately following the board's decision on recommending an applicant, the board shall collect and seal all criminal history record information obtained by the board that relates to that applicant.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.1005. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BAR OF TEXAS. (a) The general counsel of the State Bar of Texas 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 licensed by the state bar and who is the subject of or involved in an investigation of:

(A) professional misconduct relating to a grievance filed under the disciplinary rules of the state bar; or

(B) barratry, the unauthorized practice of law, or falsely holding oneself out as a lawyer, in violation of Section 38.12, 38.122, or 38.123, Penal Code;

(2) a witness in any disciplinary action or proceeding conducted by the state bar, the Board of Disciplinary Appeals, or any court; or

(3) an applicant for reinstatement to practice law.

(b) Information received by the state bar is confidential and may be disseminated only in a disciplinary action or proceeding conducted by the state bar, the Board of Disciplinary Appeals, or any court.

(c) The state bar shall destroy criminal history record information obtained under this section promptly after a final determination is made in the matter for which the information was obtained.

Added by Acts 1997, 75th Leg., ch. 440, Sec. 1, eff. May 29, 1997. Renumbered from V.T.C.A., Government Code Sec. 411.135 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(39), eff. Sept. 1, 1999.

Sec. 411.101. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STRUCTURAL PEST CONTROL BOARD. The Texas structural pest control board 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 structural pest control business license under Chapter 1951, Occupations Code;

(2) an applicant for a certified applicator's license under that chapter; or

(3) a holder of a structural pest control business license or a certified applicator's license under that chapter.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.777, eff. Sept. 1, 2003.

Sec. 411.102. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MCGRUFF HOUSE PROGRAM. (a) In this section:

(1) "McGruff House" means a house that has been designated as a temporary haven for school-age children by a McGruff House program.

(2) "McGruff House program" means a program organized by local law enforcement agencies and civic organizations to provide a temporary haven and sense of security to school-age children in emergency or threatening situations.

(b) A local law enforcement agency involved in establishing a McGruff House program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an adult residing in a McGruff House.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.103. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CHILD WATCH PROGRAM. (a) In this section, "child watch program" means a program organized by a local civic organization with the cooperation of a school district to protect schoolchildren by having parents or volunteers patrol their residential neighborhoods and schools to watch for suspicious activity, dangers, and threats to children.

(b) A local law enforcement agency that participates in a child watch program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a participant in the program; and

(2) gives written consent to the disclosure of the information.

(c) Criminal history record information obtained by a law enforcement agency under Subsection (b) may not be released or disclosed except on court order or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.104. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION. (a) In this section, "security sensitive position" has the meaning assigned by Section 301.042(c), Labor Code.

(b) The Texas Workforce 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 a security sensitive position.

(c) Criminal history record information obtained by the commission 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) After the commission hires an applicant for a security sensitive position, the commission shall seal the criminal history record information that relates to the applicant and deliver the information to the agency administrator or the administrator's designee, who shall destroy the information.

(e) The commission shall destroy the criminal history record information of an applicant who is not hired.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 9.59, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 296, Sec. 4, 5, eff. Sept. 1, 2003.

Sec. 411.105. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. The Texas State Board of Public Accountancy 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 certification as a certified public accountant under Chapter 901, Occupations Code;

(2) an applicant to take the uniform CPA examination under that Act; or

(3) an applicant to register under Section 901.412, Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 6, eff. Sept. 1, 2003.

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 State Board of Insurance to engage in an activity regulated under the Insurance Code; or

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

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

(c) After the Texas Department of Insurance makes a determination as to the issuance of a license or certificate of authority to an applicant, the Texas Department of Insurance shall seal the criminal history record information 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.107. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: RECEIVER. (a) In this section, "receiver" has the meaning assigned by Article 21.28, Insurance Code.

(b) A receiver is entitled to obtain from the department criminal history record information maintained by the department that the receiver believes is necessary for the investigation of any matter relating to a receivership estate.

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

(d) A receiver may destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

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.

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

(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. Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.54, eff. Sept. 1, 1995.

Sec. 411.109. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMPTROLLER. (a) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that the comptroller believes is necessary for the enforcement or administration of Chapter 151, 152, 153, 154, or 155, Tax Code, including criminal history record information that relates to a person who is:

(1) an applicant for a permit under any of those chapters;

(2) a permit holder under any of those chapters;

(3) an officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, owner, or managing employee of an applicant or permit holder under any of those chapters that is a corporation, association, joint venture, syndicate, partnership, or proprietorship;

(4) believed to have violated any of those chapters;

or

(5) being considered by the comptroller for employment as a peace officer.

(b) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an employee of or an applicant for employment with the comptroller's office in a position that involves:

(1) handling currency, checks, or other funds;

(2) having access to taxpayer account information;

(3) working in a location designated by the comptroller as a security-sensitive area; or

(4) performing financial management duties designated by the comptroller as security sensitive.

(c) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that the comptroller believes is necessary for the enforcement or administration of Chapter 159, Tax Code.

(d) 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 or as provided by

Subsection (e).

(e) The comptroller is not prohibited from disclosing to a person who is the subject of criminal history record information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 77, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.12, eff. Sept. 1, 1997; Amended by Acts 2001, 77th Leg., ch. 442, Sec. 2, eff. Sept. 1, 2001.

Sec. 411.110. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES. (a) The Department of State Health Services 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 Emergency Medical Services 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; or

Text of subd. (a)(2) as amended by Acts 2005, 79th Leg., ch. 282, Sec. 3(j)

(2) an applicant for a license or a license holder under Subchapter N, Chapter 431, Health and Safety Code.

Text of subd. (a)(2) as amended by Acts 2005, 79th Leg., ch. 1300, Sec. 33

(2) an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code.

(b) Criminal history record information obtained by the Department of State Health Services 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 Department of State Health Services shall destroy the criminal history record information that relates to that entity.

(d) The Department of State Health Services shall destroy criminal history record information that relates to an applicant that is not certified.

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

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2005, 79th Leg., ch. 282, Sec. 3(j), eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 1300, Sec. 33, eff. Sept. 1, 2005.

Sec. 411.1105. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE. (a) The Texas Commission on Alcohol and Drug Abuse 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 chemical dependency counselor's license under Chapter 504, Occupations Code; or

(2) the holder of a license under that chapter.

(b) In addition to information obtained from the Federal Bureau of Investigation under Section 411.087, the Texas Commission on Alcohol and Drug Abuse is entitled to obtain information relating to the wanted persons status of an individual listed in Subsection (a).

(c) Criminal history record information obtained by the Texas Commission on Alcohol and Drug Abuse under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(d) The Texas Commission on Alcohol and Drug Abuse 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.

Added by Acts 1997, 75th Leg., ch. 18, Sec. 1, eff. Sept. 1, 1997.

Renumbered from V.T.C.A., Government Code Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(33), eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.755, eff. Sept. 1, 2001.

Sec. 411.111. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DISTRICT COURT; NAME CHANGES. A district court is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an adult; and

(2) has petitioned the court to order a change of name for the person.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.112. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION. The Commission on Law Enforcement Officer Standards and Education 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 under Chapter 1701, Occupations Code; or

(2) the holder of a license under that chapter.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.0045, eff. Sept. 1, 2003.

Sec. 411.113. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE DEAF. (a) The Texas School for the Deaf is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

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

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, volunteer, student teacher, educational intern, or person who performs ongoing educational projects at the school with a copy of the respective criminal history record information obtained from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency.

(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 or accept for placement, as applicable, with regard to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, or volunteer positions whose employment or potential employment or volunteer position with the school involves direct interactions with, or the opportunity to interact and associate with, the children or youth attending the school.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1340, Sec. 7, eff. Sept. 1, 1997.

Sec. 411.1131. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING. (a) The Texas Commission for the Deaf and Hard of Hearing 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 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 commission in accordance with Section 81.013, Human Resources Code.

(b) Criminal history record information obtained by the Texas Commission for the Deaf and Hard of Hearing under Subsection (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 Texas Commission for the Deaf and Hard of Hearing may release or disclose the information to a private entity described by Subsection (a) for that purpose.

(c) The Texas Commission for the Deaf and Hard of Hearing may not release or disclose information obtained under Subsection (a) except on court order and shall destroy all criminal history record information obtained under Subsection (a) after the information is used for its authorized purpose.

Added by Acts 2003, 78th Leg., ch. 118, Sec. 13, eff. May 23, 2003.

Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES.

(a)(1) In this subsection:

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

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

(C) "Maternity home" has the meaning assigned by Section 249.001, Health and Safety Code.

(D) "Person with a disability" means a disabled person as defined by Section 48.002, Human Resources Code.

(E) "Ward" has the meaning assigned by Section 601, Texas Probate Code.

(2) The Department of Family and Protective Services 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, or Chapter 249, Health and Safety Code;

(B) an owner, operator, or employee of or an applicant for employment by a child-care facility, child-placing agency, family home, or maternity home licensed, registered, certified, or listed under Chapter 42, Human Resources Code, or Chapter 249, Health and Safety Code;

(C) a person 14 years of age or older who will be regularly or frequently working or staying in a child-care facility, family home, or maternity home while children are being provided care, 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, 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 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;

(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 and other persons living in the residence in which the child will reside;

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

(I) a person who is the subject of a report the Department of Family and Protective Services 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 statutory definition of abuse, neglect, or exploitation under Chapter 261, Family Code, or Chapter 48, Human Resources Code; and

(ii) the person who is the subject of the

report 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 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 children, elderly persons, or persons 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) The Department of Protective and Regulatory Services is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

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

(B) a volunteer or applicant volunteer with the "I Have a Dream/Houston" program;

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

(D) 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;

(E) a volunteer or applicant volunteer with a Texas chapter of the Make-a-Wish Foundation of America;

(F) 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;

(G) a child who is related to the caretaker, as determined under Section 42.002, Human Resources Code, and who resides in or is present in a child-care facility, family home, or maternity home, other than a child described by Subdivision (2)(C), or any other person who has unsupervised access to a child in the care of a child-care facility, family home, or maternity home;

(H) an applicant for a position with the Department of Protective and Regulatory Services, other than a position described by Subdivision (2)(D), regardless of the duties of the position;

(I) a volunteer or applicant volunteer with the Department of Protective and Regulatory Services, other than a registered volunteer, regardless of the duties to be performed;

(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 Department of Protective and Regulatory Services employee, other than an employee described by Subdivision (2)(H), regardless of the duties of the employee's position;

(L) a relative of a child in the care of the Department of Protective and Regulatory Services, to the extent necessary to comply with Section 162.007, Family Code;

(M) a person, other than the subject of a report described in Subdivision (2)(I), living in the residence in which the alleged victim of the report resides;

(N) a contractor or an employee of a contractor who delivers services to a ward of the Department of Protective and Regulatory Services under a contract with the estate of the ward;

(O) a person who seeks unsupervised visits with a ward of the Department of Protective and Regulatory Services, including a relative of the ward; 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, the Department of Protective and Regulatory Services is 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 described by Subdivision (2); 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 Protective and Regulatory Services workers to ensure prompt criminal background checks for the safety of alleged victims and Department of Protective and Regulatory Services workers.

(5) The Department of Protective and Regulatory Services may not use the authority granted under this section to harass an employee or volunteer. The Board of Protective and Regulatory Services 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 Protective and Regulatory Services 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 Protective and Regulatory Services concerning the person who is the subject of the criminal history record information; or

(D) as provided by Subdivision (7).

(7) The Department of Protective and Regulatory Services 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-care facility, child-placing agency, family home, or maternity home listed in Subdivision (2) that employs or is considering employing the person who is the subject of the criminal history record information;

(C) a person or business entity described by Subdivision (2)(E) or (3) who uses or intends to use the services of the volunteer or employs or is considering employing the person who is the subject of the criminal history record information; or

(D) an adult residing with a child, elderly person, or person with a disability and the person who is the subject of the criminal history record information, if the Department of Protective and Regulatory Services determines that the release of information to the adult is necessary to ensure the safety or welfare of the child, elderly person, or person with a disability or the adult.

(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 Protective and Regulatory Services, 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 Protective and Regulatory Services 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 920, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 648, Sec. 1, eff. June 11, 1997; Acts 1997, 75th Leg., ch. 664, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 96, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.06, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 691, Sec. 1, 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 144, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 185, Sec. 3, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 268, Sec. 1.69, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 728, Sec. 8.002, eff. Sept. 1, 2005.

Sec. 411.1141. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS YOUTH COMMISSION. (a) The Texas Youth Commission 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 position with the Texas Youth

Commission;

(2) a volunteer or an intern, or an applicant volunteer or intern, with the Texas Youth Commission;

(3) a business entity or person who contracts with the Texas Youth Commission to provide direct delivery services to youth;

(4) an employee of, or an applicant for employment with, a business entity or person who contracts with the Texas Youth Commission to provide direct delivery of services to youth; or

(5) a volunteer or an intern, or an applicant volunteer or intern, with a business entity or person who contracts with the Texas Youth Commission to provide direct delivery of services to youth.

(b) Criminal history record information obtained by the Texas Youth Commission under Subsection (a) may not be released to any person except:

(1) on court order;

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

(3) for purposes of an administrative hearing held, or an investigation conducted, by the Texas Youth Commission concerning the person who is the subject of the criminal history record information; or

(4) as provided by Subsection (c).

(c) The Texas Youth Commission is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

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

(2) a business entity or person described by Subsection (a)(4) or (a)(5) who uses or intends to use the services of the volunteer or intern or employs or is considering employing the person who is the subject of the criminal history record information.

(d) The Texas Youth Commission may charge an entity or a person who requests criminal history record information under Subsection (a)(4) or (a)(5) a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

Added by Acts 1997, 75th Leg., ch. 320, Sec. 1, eff. May 26, 1997. Renumbered from V.T.C.A., Government Code Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(34), eff. Sept. 1, 1999.

Sec. 411.1142. ACCESS TO CRIMINAL HISTORY RECORD: INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION. (a) The Interagency Council on Early Childhood Intervention is entitled to obtain criminal history record information 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 council 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) Criminal history record information obtained by the council under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c) The council shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The council 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.

(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 council 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 council 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.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 19, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(35), eff. Sept. 1, 1999.

Sec. 411.1143. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AGENCIES OPERATING PART OF MEDICAL ASSISTANCE PROGRAM. (a) The Health and Human Services Commission or an agency operating part of the medical assistance program under Chapter 32, Human Resources 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) Criminal history record information obtained by the commission or an agency under Subsection (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.

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 2.04(b), eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(36), eff. Sept. 1, 1999.

Sec. 411.1145. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE PRESERVATION BOARD. (a) The State Preservation Board is entitled to obtain criminal history record information maintained by the department that relates to a person who is an employee, volunteer, or intern, or an applicant to be an employee, volunteer, or intern, in a position that involves:

(1) handling money or checks;

(2) working in the Capitol or another area designated by the executive director as security sensitive; or

(3) direct contact with persons under 18 years of age.

(b) Criminal history record information obtained by the board under this section may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.

Added by Acts 2001, 77th Leg., ch. 1462, Sec. 8, eff. June 17, 2001.

Sec. 411.115. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; LOCAL AUTHORITIES; COMMUNITY CENTERS. (a) In this section, "local mental health authority," "local mental retardation authority," and "community center" have the meanings assigned by Section 531.002, Health and Safety Code.

(b) The Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center is entitled to obtain from the department criminal history record information maintained by the department that relates to a person:

(1) who is:

(A) an applicant for employment with the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center;

(B) an employee of the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center;

(C) an applicant for employment with or an employee of a business or person that contracts with the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center to provide residential services to patients with mental illness or clients with mental retardation who were furloughed or discharged from a Texas Department of Mental Health and Mental Retardation facility or community center;

(D) a volunteer with the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation 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 mental retardation.

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(2).

(d) Criminal history record information obtained by the mental health department, a local mental health or mental retardation authority, or a community center under Subsection (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 Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 296, Sec. 7, 13(2), eff. Sept. 1, 2003.

Sec. 411.116. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ORGANIZATION PROVIDING CERTAIN NURSE AIDES. (a) In this section:

(1) "Facility" has the meaning assigned by Section 106.001, Human Resources Code.

(2) "Nurse aide" has the meaning assigned by Chapter 106, Human Resources Code.

(3) "Organization that provides temporary nurse aides" includes a temporary employment service, nursing pool, private duty nurse service, or sitter service.

(b) An organization that provides temporary nurse aides to a facility is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a nurse aide; and

(2) a candidate for referral by the organization to a facility.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.117. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS REHABILITATION COMMISSION. The Texas Rehabilitation Commission 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 rehabilitation services of the Texas Rehabilitation Commission;

(2) a client of the Texas Rehabilitation Commission;

or

(3) an applicant for employment whose potential duties include direct contact with clients of the Texas Rehabilitation Commission.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 393, Sec. 25, eff. Sept. 1, 1999.

Sec. 411.118. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYER AT RESIDENTIAL DWELLING PROJECT. (a) In this section, "employer," "employee," "occupant," and "residential dwelling project" have the meanings assigned by Section 765.001, Health and Safety Code.

(b) An employer is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who:

(1) is an applicant for a position of employment in a residential dwelling project to whom an offer of employment is made; and

(2) may be reasonably required to have access to the residence of an occupant.

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(3).

(d) Criminal history record information obtained 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 572, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 296, Sec. 13(3), eff. Sept. 1, 2003.

Sec. 411.1181. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; APPLICANTS FOR EMPLOYMENT. (a) In this section, "in-home service company" and "residential delivery company" have the meanings assigned by Section 145.001, Civil Practice and Remedies Code.

(b) An in-home service company or residential delivery company is entitled to obtain from the Department of Public Safety

or a private vendor approved by the department and offering services comparable to the services offered by the department criminal history record information maintained by the department that relates to:

(1) an officer of or person employed by the company whose job duties require entry into another person's residence; or

(2) an applicant to whom an offer of employment is made for a position of employment with the company, the job duties of which require entry into another person's residence.

(c) Criminal history record information obtained by an in-home service company or residential delivery company under Subsection (b) may not be released or disclosed to any person except on court order, upon proper discovery request during litigation or with the consent of the person who is the subject of the criminal history record information.

(d) The in-home service company or residential delivery company shall destroy criminal history record information that relates to a person no sooner than two years after the person's office or employment with the company ends or the company determines not to employ the person, as applicable.

Added by Acts 2003, 78th Leg., ch. 228, Sec. 2, eff. Sept. 1, 2003.

Sec. 411.1182. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMMERCIAL NUCLEAR POWER PLANT LICENSEES. (a) A commercial nuclear power plant licensee and its contractors, for security reasons and consistent with requirements of the United States Nuclear Regulatory Commission, are entitled to obtain from the department criminal history record information maintained by the department that relates to a person who has or is seeking employment at or access to the commercial nuclear power plant.

(b) The department shall place a high priority on requests under Subsection (a) and respond as expeditiously as possible; in no event shall the department respond later than two business days after the date the request is received by the department.

(c) Criminal history information obtained from the department may not be released or disclosed except as needed in protecting the security of a commercial nuclear power plant or as authorized by the United States Nuclear Regulatory Commission, a court order, or a federal or state law or order.

Added by Acts 2003, 78th Leg., ch. 1237, Sec. 3, eff. June 20, 2003. Renumbered from V.T.C.A., Government Code Sec. 411.1181 by Acts 2005, 79th Leg., ch. 728, Sec. 23.001(29), eff. Sept. 1, 2005.

Sec. 411.119. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON PRIVATE SECURITY. The Texas Commission on Private Security is entitled to obtain from the department criminal history record information maintained by the department, including information maintained under Section 411.042(b)(5), that relates to:

(1) an applicant for a license, registration, security officer commission, letter of approval, permit, or handgun instructor certification under Chapter 1702, Occupations Code; or

(2) a person who holds a license, registration, security officer commission, letter of approval, permit, or handgun instructor certification under Chapter 1702, Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 388, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 974, Sec. 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.756, eff. Sept. 1, 2001.

Sec. 411.120. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY JUDGE; CERTAIN APPLICANTS. (a) The county judge of a county 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 wine and beer retailer's permit under Chapter 25, Alcoholic Beverage Code; or

(2) an applicant for a retail dealer's on-premise license under Chapter 69 of that code.

(b) Criminal history record information obtained by a county judge under Subsection (a) may not be released or disclosed to any person except in a hearing held under Chapter 25 or 69, Alcoholic Beverage Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.121. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ADJUTANT GENERAL. (a) In this section:

(1) "Adjutant general" has the meaning assigned by Section 431.022.

(2) "State military forces" has the meaning assigned by Section 431.001.

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

- (1) a member of the state military forces;
- (2) an employee of the adjutant general's department;
- (3) an applicant for enlistment in the state military forces; or
- (4) an applicant for employment with the adjutant general's department.

(c) The adjutant general is entitled to criminal history record information under Subsection (b)(3) or (b)(4) only if the adjutant general submits to the department a signed statement from the applicant that authorizes the adjutant general to obtain the information.

(d) Criminal history record information obtained by the adjutant general under Subsection (b) may not be released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) The adjutant general shall destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.122. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LICENSING OR REGULATORY AGENCY. (a) Except as provided by Subsection (c)(2), an agency of this state listed in Subsection (d) or a political subdivision of this state covered by Chapter 53, Occupations Code, that licenses or regulates members of a particular trade, occupation, business, vocation, or profession 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 from the agency;
- (2) is the holder of a license from the agency; or
- (3) requests a determination of eligibility for a license from the agency.

(b) Repealed by Acts 2003, 78th Leg., ch. 83, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 13(4), eff. Sept. 1, 2003.

(c) This section does not apply to an agency that is:
(1) specifically authorized by this subchapter to obtain criminal history record information from the department; or
(2) covered by Section 53.002, Occupations Code, to the extent provided by that section.

(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) Department of State Health Services, except as provided by Section 411.110, and agencies attached to the department, including:

- (A) Texas State Board of Examiners of Dietitians;
- (B) Texas State Board of Examiners of Marriage and Family Therapists;
- (C) Midwifery Board;
- (D) Texas State Board of Examiners of Perfusionists;
- (E) Texas State Board of Examiners of Professional Counselors;
- (F) Texas State Board of Social Worker Examiners;
- (G) State Board of Examiners for Speech-Language Pathology and Audiology;
- (H) Advisory Board of Athletic Trainers;
- (I) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;
- (J) Texas Board of Licensure for Professional Medical Physicists; and

- (K) Texas Board of Orthotics and Prosthetics;
- (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 Podiatric Medical Examiners;
- (18) Polygraph Examiners Board;
- (19) Texas State Board of Examiners of Psychologists;
- (20) Texas Real Estate Commission;
- (21) Board of Tax Professional Examiners;
- (22) Texas Department of Transportation;
- (23) State Board of Veterinary Medical Examiners;
- (24) Texas Department of Housing and Community Affairs;
- (25) secretary of state;
- (26) state fire marshal;
- (27) Texas Education Agency; and
- (28) Department of Agriculture.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.757, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 83, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 13(4), eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 798, Sec. 4.02, eff. Sept. 1, 2005.

Sec. 411.123. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MUNICIPAL FIRE DEPARTMENT. (a) A fire department that is operated by a municipality in this state 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 beginning position with the fire department; and

(2) required to be certified by the Texas Commission on Fire Protection.

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(5).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(5), eff. Sept. 1, 2003.

Sec. 411.1235. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER FIRE DEPARTMENTS. (a) A volunteer fire department or a fire department operated by an emergency services district 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 certified by the Texas Commission on Fire Protection and:

(1) is an applicant for a beginning position with the fire department; or

(2) currently holds a position with that fire department.

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(6).

(c) A fire department may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(6), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1204, Sec. 2.001, eff. Sept. 1, 2003.

Sec. 411.1236. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON FIRE PROTECTION. (a) The Texas Commission on Fire Protection 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 issued under Chapter 419; or

(2) an applicant for employment by or an employee of the commission

(b) Criminal history record information obtained by the Texas Commission on Fire Protection under Subsection (a) may not be released to any person or agency except on court order, unless the information is entered into evidence by the board in an

administrative, civil, or criminal hearing under Chapter 419.

(c), (d) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(7).

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.08, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 8, 13(7), eff. Sept. 1, 2003.

Sec. 411.1237. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY FIRE MARSHALS. (a) On request of the department chief or chief executive of a fire department or an emergency medical services provider for an unincorporated area, a county fire marshal is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) an applicant for employment or membership with the requesting department or provider; or

(2) an employee or member of the requesting department or provider.

(b) The county fire marshal may disclose criminal history record information obtained under Subsection (a) to the department chief or chief executive of the requesting fire department or emergency medical services provider, except that the county fire marshal may disclose criminal history record information obtained by the department from the Federal Bureau of Investigation only to governmental entities or as authorized by federal law, federal executive order, or federal rule.

Added by Acts 2003, 78th Leg., ch. 951, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.124. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: POLITICAL SUBDIVISIONS; PUBLIC TRANSPORTATION DRIVERS. (a) A political subdivision of this state that employs, licenses, or regulates drivers of public transportation vehicles is entitled to obtain from the department or from a law enforcement agency of the political subdivision with access to the information the criminal history record information maintained by the department that relates to a person who is:

(1) the driver of a public transportation vehicle; and

(2) employed, licensed, or regulated by the political subdivision.

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(8).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 559, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 296, Sec. 13(8), eff. Sept. 1, 2003.

Sec. 411.125. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BOARD OF NURSE EXAMINERS. (a) The Board of Nurse 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 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 subject to investigation by the board in connection with a complaint or formal charge against the person.

(b) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(9).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(9), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1102, Sec. 4, eff. Sept. 1, 2003.

Sec. 411.126. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER CENTERS. (a) In this section:

(1) "Volunteer center" means a nonprofit, tax-exempt organization:

(A) whose primary purpose is to recruit and refer individual volunteers for other nonprofit groups in that area; and

(B) that is certified as a bona fide volunteer center by the department.

(2) "Volunteer" or "volunteer applicant" means a person who will perform one or more of the following services without remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;
(ii) an elderly person; or
(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated.

(3) "Employee" or "employee applicant" means a person who will perform one or more of the following services or functions for remuneration:

(A) any service performed in a residence;
(B) any service that requires the access to or the handling of money or confidential or privileged information;
or

(C) any service that involves the care of or access to:

(i) a child;
(ii) an elderly person; or
(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated;

(D) coordination or referral of volunteers; or

(E) executive administrative responsibilities.

(4) "Client agency" means a nonprofit agency served by a volunteer center.

(b) A volunteer center 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, an employee applicant, a volunteer, or a volunteer applicant of the volunteer center; or

(2) an employee, an employee applicant, a volunteer, or a volunteer applicant of a client agency.

(c) The department may establish rules governing the administration of this section and charge volunteer centers a fee to cover the department's direct costs of administering this program.

(d) A volunteer center may disseminate criminal history record information to a client agency, if the client agency has been approved by the department.

(e) A volunteer center or client agency may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

(f) Subject to approval by the department, two or more volunteer centers may share technical and staff resources in the development and operation of services for the dissemination of criminal history record information.

(g) Except in the case of gross negligence or intentional misconduct, a volunteer center is not liable for damages arising from:

(1) the release or use of information obtained under this section;

(2) the failure to release or use information obtained under this section; or

(3) the failure to obtain information under this section.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 248, Sec. 2, eff. Sept. 1, 1995.

Sec. 411.127. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT AND CONTRACTORS. (a) The Title IV-D agency is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who is an applicant for a position of employment with the Title IV-D agency, or an applicant to serve as a consultant, intern, or volunteer, that involves the performance of duties under Chapter 231, Family Code. The Title IV-D agency may not request the information unless a supervisory employee of the agency has recommended that the applicant be hired or serve as an intern or volunteer.

(b) The Title IV-D agency is entitled to obtain from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who proposes to enter into a contract with or that has a contract with the Title IV-D agency to

supply goods or services to the Title IV-D agency. The authorization under this subsection to obtain criminal history record information about a person includes information relating to an employee or subcontractor of the person or an employee of the person's subcontractor.

(c) Criminal history record information obtained by the Title IV-D agency under Subsection (a) or (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) The Title IV-D agency shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(e) In this section, "Title IV-D agency" has the meaning assigned by Section 101.033, Family Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 42, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 556, Sec. 76, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1023, Sec. 74, eff. Sept. 1, 2001.

Sec. 411.128. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PERSON SEEKING TO ADOPT CHILD. (a) A person seeking to adopt a child under Chapter 162, Family Code, who is ordered by the court to obtain the person's own criminal history record information from the department under Section 162.0085, Family Code, shall request the information as provided by this section.

(b) A person requesting information under this section shall provide the department with the name and address of the court and the date set for the adoption hearing.

Text of subsec. (c) as added by Acts 1995, 74th Leg., ch. 751, Sec. 123

(c) The department shall provide the court with criminal history record information not later than the 10th day after the date on which the criminal history record information is requested. Text of subsec. (c) as added by Acts 1995, 74th Leg., ch. 908, Sec. 3

(c) The department shall provide the court with criminal history record information not later than the 10th day before the date set for the adoption hearing.

(d) Criminal history record information requested under this section may not be released or disclosed to a person other than the court ordering the investigation except on court order or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 123; Acts 1995, 74th Leg., ch. 908, Sec. 3, eff. Sept. 1, 1995.

Sec. 411.1285. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DOMESTIC RELATIONS OFFICE. (a) A domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the department criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office has been:

(1) appointed guardian ad litem for a child; or

(2) ordered to conduct a social study under Subchapter D, Chapter 107, Family Code.

(b) The department shall provide the domestic relations office with criminal history record information not later than the 10th day after the date on which the criminal history record information is requested.

(c) Criminal history record information requested under this section, including information included in a report of a social study filed under Section 107.054, Family Code, may not be released or disclosed by a domestic relations office to a person other than the court ordering the social study except on court order or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1999, 76th Leg., ch. 318, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 1040, Sec. 1, eff. Sept. 1, 2005.

Sec. 411.1286. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY COMMISSIONERS COURTS; COUNTY CHILD WELFARE BOARD MEMBERS. The commissioners court of a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a member of a county child welfare board appointed by the commissioners court under Section 264.005, Family Code.

Added by Acts 1999, 76th Leg., ch. 318, Sec. 1, eff. Sept. 1, 1999.

Sec. 411.129. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY MUNICIPALITY. (a) Except as provided by Subsection (b), a municipality 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 employment by the municipality. Not later than September 1, 2000, the department shall make available through electronic means the information available to municipalities under this section.

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

Added by Acts 1995, 74th Leg., ch. 323, Sec. 1, eff. Aug. 28, 1995. Renumbered from V.T.C.A., Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(34), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1024, Sec. 1, eff. June 18, 1999.

Sec. 411.1295. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY COUNTY. (a) Except as provided by Subsection (b), a county 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 employment by the county.

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

Added by Acts 1999, 76th Leg., ch. 346, Sec. 1, eff. Aug. 30, 1999.

Sec. 411.1296. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY APPRAISAL DISTRICT. (a) Except as provided by Subsection (b), an appraisal district established by Section 6.01, Tax Code, 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 employment by the appraisal district.

(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.

Added by Acts 2003, 78th Leg., ch. 1037, Sec. 1, eff. June 20, 2003.

Sec. 411.130. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; CRIME VICTIMS' INSTITUTE. The Crime Victims' Institute is entitled to obtain from the department criminal history record information maintained by the department that the institute believes is necessary for the performance of the duties of the institute under Section 96.65, Education Code.

Added by Acts 1995, 74th Leg., ch. 485, Sec. 2, eff. Sept. 1, 1995. Renumbered from V.T.C.A., Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(35), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 927, Sec. 3, eff. Sept. 1, 2003.

Sec. 411.131. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAFE HOUSES. (a) In this section:

(1) "Safe house" means a nonprofit organization:
(A) whose primary purpose is to provide temporary shelter for children avoiding harmful situations;
(B) that is certified as a bona fide safe house by a local law enforcement agency; and
(C) that is operating as a "Safe House."

(2) "Volunteer" or "volunteer applicant" means a person who will perform one or more of the following services without remuneration:

(A) any service performed in a safe house;
(B) any service that requires the access to or the handling of money or confidential or privileged information;
(C) any service that involves the care of or access to a child;
(D) coordination or referral of volunteers; or
(E) executive administrative responsibilities.

(b) A safe house is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is a volunteer or a volunteer applicant of the volunteer center, if the volunteer or applicant signs a written consent to a criminal history background check.

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(10).

(d) The department may establish rules governing the administration of this section.

(e) A safe house may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer.

(f) A safe house or an officer or volunteer of a safe house is not liable in a civil action for damages resulting from a failure to comply with this section if the safe house, officer, or volunteer makes a good faith effort to comply.

Added by Acts 1995, 74th Leg., ch. 691, Sec. 1, eff. Aug. 28, 1995. Renumbered from V.T.C.A., Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(36), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(10), eff. Sept. 1, 2003.

Sec. 411.132. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE AUDITOR. (a) The state auditor is entitled to obtain from the department criminal history record information for purposes of:

(1) performing risk assessment in devising the annual audit plan; or

(2) performing an investigation under Chapter 321 of specified acts or allegations of impropriety, malfeasance, or nonfeasance.

(b) The department and the state auditor shall enter into an agreement providing the state auditor with electronic access to the information that includes appropriate safeguards against unauthorized disclosure of the information.

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

(d) If, in the judgment of the state auditor, information obtained under Subsection (a) indicates a substantial risk to the interests of the state, the state auditor shall report the information to the legislative audit committee and to the administrative head of the affected agency. The reports are audit working papers of the state auditor.

(e) The state auditor shall destroy information obtained under Subsection (a) when the information is no longer needed for audit purposes or to support audit findings.

Added by Acts 1997, 75th Leg., ch. 1122, Sec. 9, eff. Sept. 1, 1997.

Sec. 411.133. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: REGIONAL TOLLWAY AUTHORITIES. (a) A regional tollway authority governed by Chapter 366, Transportation Code, is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who is:

(1) employed by the regional tollway authority; or

(2) an applicant for employment with the regional tollway authority.

(b) Criminal history record information obtained under Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in a hearing conducted by the regional tollway authority, on court order, or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.25, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(37), eff. Sept. 1, 1999.

Sec. 411.134. CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE LIBRARY AND ARCHIVES COMMISSION. (a) In this section:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Security-sensitive position" means a position of employment with the Texas State Library and Archives Commission held by an employee who:

(A) has access to the confidential records of state agencies that are stored by the commission;

(B) has access to any part of the archives of the state library as described in Section 441.010;

(C) has access to a computer terminal, if any information available from the terminal is required by law to remain confidential; or

(D) handles currency.

(b) The commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is employed in or is an applicant for a security-sensitive position.

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

(d) The commission shall destroy criminal history record information 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.

Added by Acts 1997, 75th Leg., ch. 1366, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(38), eff. Sept. 1, 1999.

Sec. 411.135. ACCESS TO CERTAIN INFORMATION BY PUBLIC. (a) Any person is entitled to obtain from the department:

(1) any information described as public information under Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997, including, to the extent available, a recent photograph of each person subject to registration under that chapter; and

(2) criminal history record information maintained by the department that relates to the conviction of or a grant of deferred adjudication to a person for any criminal offense, including arrest information that relates to the conviction or grant of deferred adjudication.

(b) The department by rule shall design and implement a system to respond to electronic inquiries and other inquiries for information described by Subsection (a).

(c) A person who obtains information from the department under Subsection (a) may:

(1) use the information for any purpose; or

(2) release the information to any other person.

Added by Acts 1997, 75th Leg., ch. 747, Sec. 2, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1415, Sec. 21, eff. Sept. 1, 1999.

Sec. 411.136. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN HOSPITALS AND HOSPITAL DISTRICTS. (a) In this section:

(1) "Public hospital" means a hospital that is owned, operated, or leased by a county, municipality, or hospital authority.

(2) "Nonprofit hospital" means a hospital that is exempt from federal taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

(b) A public or nonprofit hospital or hospital district 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 employment or a volunteer position with the hospital or district;

(2) an employee of or a volunteer with the hospital or district; or

(3) an applicant for employment with or an employee of a person or business that contracts with the hospital or district.

(c) The public or nonprofit hospital or hospital district shall adopt a uniform method to obtain criminal history information from persons described by Subsection (b). The hospital or district may require the complete name, driver's license number, fingerprints, or social security number of those persons.

(d) The public or nonprofit hospital or hospital district may dismiss a person or deny a person employment or a volunteer position or refuse to allow a person to work in a hospital or district facility if:

(1) the person fails or refuses to provide information described by Subsection (c); or

(2) the person's criminal history record information reveals a conviction or deferred adjudication that renders the person unqualified or unsuitable for employment or a volunteer position.

(e) All criminal history record information received by a public or nonprofit hospital or hospital district under this section is privileged, confidential, and intended for the exclusive use of the entity that obtained the information. The hospital or

district may not release or disclose criminal history record information to any person or agency except in a criminal proceeding, in a hearing conducted by the hospital or district, to another governmental entity as required by law, or as required by court order.

(f) The public or nonprofit hospital or hospital district shall develop procedures for the custody and use of information obtained under this section. After use of the information, the hospital or district administrator or the administrator's designee shall destroy the information in accordance with the hospital's or district's document destruction procedures.

(g) A public or nonprofit hospital, a hospital district, a member of the governing board of the hospital or district, or an employee of a hospital or district is not civilly liable for failure to comply with this chapter if the hospital or district makes a good faith effort to comply.

Added by Acts 1999, 76th Leg., ch. 60, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 97, Sec. 1, eff. May 20, 2003.

Sec. 411.137. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS JUVENILE PROBATION COMMISSION. The Texas Juvenile Probation Commission 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 position with the commission;
(2) an applicant for certification from the commission; or

(3) a holder of a certification from the commission.
Added by Acts 2001, 77th Leg., ch. 1297, Sec. 56, eff. Sept. 1, 2001.

Sec. 411.138. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: JUVENILE BOARD OR JUVENILE PROBATION DEPARTMENT. A juvenile board or juvenile probation department 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 position with the juvenile probation department;

(2) an employee for whom the juvenile board or juvenile probation department will seek certification from the Texas Juvenile Probation Commission; or

(3) an employee or department applicant who currently holds certification from the Texas Juvenile Probation Commission.
Added by Acts 2001, 77th Leg., ch. 1297, Sec. 56, eff. Sept. 1, 2001.

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND LOAN COMMISSIONER. (a) The savings and loan commissioner 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 holder of a mortgage broker or loan officer license issued under Chapter 156, Finance Code.

(b) Criminal history record information obtained by the savings and loan commissioner under Subsection (a) may be released or disclosed only as provided by Section 156.206, Finance Code.

Added by Acts 2003, 78th Leg., ch. 173, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

Sec. 411.1386. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COURT CLERK; GUARDIANSHIPS. (a) The clerk of the county having venue over a proceeding for the appointment of a guardian under Chapter 13, Probate Code, is entitled to 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; or

(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.

(b) Criminal history record information obtained by a clerk under Subsection (a) is for the exclusive use of the court and may

be used only in determining whether to appoint, remove, or continue the appointment of a private professional guardian.

(c) Criminal history record information obtained by a clerk under Subsection (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 clerk may destroy the criminal history record information after the information is used for the purposes authorized by this section.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

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 facility, regulatory agency, or private agency on behalf of a facility 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 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) A facility may:

(1) obtain directly from the department criminal history record information on an applicant or employee described by Subsection (b); or

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

(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.

(e) Criminal history record information obtained by a facility, regulatory agency, or private agency on behalf of a facility under Subsection (b) 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.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

Sec. 411.1388. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INTERAGENCY COUNCIL ON SEX OFFENDER TREATMENT. (a) The Council on Sex Offender Treatment is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is licensed to provide mental health or medical services for the rehabilitation of sex offenders under Chapter 110, Occupations Code; or

(2) has applied for a license or renewal of a license to provide mental health or medical services for the rehabilitation of sex offenders under Chapter 110, Occupations Code.

(b) Criminal history record information obtained by the Interagency Council on Sex Offender Treatment under Subsection (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.

(c) The Interagency Council on Sex Offender Treatment shall destroy criminal history record information obtained under Subsection (a) not later than the first anniversary of the date the council makes a decision as to the person's eligibility for registration or the renewal of a registration.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

Amended by Acts 2005, 79th Leg., ch. 1089, Sec. 30, eff. Sept. 1, 2005.

Sec. 411.139. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE SECURITIES BOARD. (a) The securities 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 a certificate of registration under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(2) a holder of a certificate of registration under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil

Statutes);

(3) an applicant for employment by the State Securities Board; or

(4) an employee of the State Securities Board.

(b) Criminal history record information obtained by the securities commissioner under this section may not be released by any person or agency except on court order, unless the information is entered into evidence by the State Securities Board or a court at an administrative proceeding or a civil or criminal action under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.23, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 411.137 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(57), eff. Sept. 1, 2003.

Sec. 411.140. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE COMMISSION ON JUDICIAL CONDUCT. (a) The State Commission on Judicial Conduct is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a judge who is the subject of an investigation or proceeding under Chapter 33; or

(2) the complainant or a witness in an investigation or a proceeding under Chapter 33.

(b) Information received by the State Commission on Judicial Conduct is confidential and may be disseminated only in an investigation or proceeding conducted by the commission.

(c) The State Commission on Judicial Conduct shall destroy criminal history record information obtained under this section promptly after a final determination is made in the matter for which the information was obtained.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 19, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 411.137 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(58), eff. Sept. 1, 2003.

Sec. 411.1401. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PROGRAMS PROVIDING ACTIVITIES FOR CHILDREN. (a) In this section, "activity provider" means a nonprofit program that includes as participants or recipients persons who are younger than 17 years of age and that regularly provides athletic, civic, or cultural activities.

(b) An activity provider is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is a volunteer or a volunteer applicant of the activity provider.

(c) The department may establish rules governing the administration of this section.

(d) An activity provider may use criminal history record information obtained under this section only to determine the suitability of a person for a position as a volunteer and may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after a determination of suitability is made.

(e) Criminal history record information obtained under this section may not be released or disclosed to any person except in a criminal proceeding, on court order, or with the consent of the person who is the subject of the criminal history record information.

(f) An employee, officer, or volunteer of an activity provider is not liable in a civil action for damages resulting from a failure to comply with this section unless the act or omission of the employee, officer, or volunteer was intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 10, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 838, Sec. 1, eff. June 30, 2003.

Sec. 411.1402. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYEES RETIREMENT SYSTEM OF TEXAS. (a) The Employees Retirement System of Texas 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 employment with, or who is or has been employed by, the retirement system.

(b) Criminal history record information obtained by the Employees Retirement System of Texas under Subsection (a) may be used only to evaluate an applicant for employment with, or a current or former employee of, the retirement system.

(c) The Employees Retirement System of Texas may not release or disclose information obtained under Subsection (a) except on court order.

(d) After the expiration of any probationary term of the person's employment or not later than the 180th day after the date of receipt of the information, whichever is later, the Employees Retirement System of Texas shall destroy all criminal history record information obtained under Subsection (a).

Added by Acts 2005, 79th Leg., ch. 347, Sec. 1, eff. Sept. 1, 2005.

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 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.

Added by Acts 2003, 78th Leg., ch. 87, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER G. DNA DATABASE SYSTEM

Sec. 411.141. DEFINITIONS. In this subchapter:

(1) "CODIS" means the FBI's Combined DNA Index System. The term includes the national DNA index system sponsored by the FBI.

(2) "Conviction" includes conviction by a jury or a court, a guilty plea, a plea of nolo contendere, or a finding of not guilty by reason of insanity.

(3) "Criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(4) "DNA" means deoxyribonucleic acid.

(5) "DNA database" means one or more databases that contain forensic DNA records maintained by the director.

(6) "DNA laboratory" means a laboratory that performs forensic DNA analysis on samples or specimens derived from a human body, physical evidence, or a crime scene. The term includes a department crime laboratory facility that conducts forensic DNA analysis.

(7) "DNA record" means the results of a forensic DNA analysis performed by a DNA laboratory. The term includes a DNA profile and related records, which may include a code or other identifying number referenced to a separate database to locate:

(A) the originating entity; and

(B) if known, the name and other personally identifying information concerning the individual who is the subject of the analysis.

(8) "DNA sample" means a blood sample or other biological sample or specimen provided by an individual under this subchapter or submitted to the director under this subchapter for DNA analysis or storage.

(9) "FBI" means the Federal Bureau of Investigation.

(10) "Forensic analysis" has the meaning assigned by Article 38.35, Code of Criminal Procedure.

(11) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(12) "Penal institution" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 4, eff. Sept. 1, 2005.

Sec. 411.142. DNA DATABASE. (a) The director shall record DNA data and establish and maintain a computerized database that serves as the central depository in the state for DNA records.

(b) The director may maintain the DNA database in the department's crime laboratory in Austin or another suitable location.

(c) The director may receive, analyze, store, and destroy a record or DNA sample for the purposes described by Section 411.143.

(d) The DNA database must be capable of classifying, matching, and storing the results of analyses of DNA.

(e) The director, with advice from the Department of Information Resources, shall develop biennial plans to:

(1) improve the reporting and accuracy of the DNA database; and

(2) develop and maintain a monitoring system capable of identifying inaccurate or incomplete information.

(f) The DNA database must be compatible with the national DNA identification index system (CODIS) used by the FBI to the extent required by the FBI to permit the useful exchange and storage of DNA records or information derived from those records.

(g) The DNA database may contain DNA records for the following:

(1) an individual described by this subchapter, including Section 411.1471, 411.148, or 411.150;

(2) a biological specimen of a deceased victim of a crime;

(3) a biological specimen that is legally obtained in the investigation of a crime, regardless of origin;

(4) results of testing ordered by a court under this subchapter, Article 64.03, Code of Criminal Procedure, or other law permitting or requiring the creation of a DNA record;

(5) an unidentified missing person, or unidentified skeletal remains or body parts;

(6) a close biological relative of a person who has

been reported missing to a law enforcement agency;

(7) a person at risk of becoming lost, such as a child or a person declared by a court to be mentally incapacitated, if the record is required by court order or a parent, conservator, or guardian of the person consents to the record; or

(8) an unidentified person, if the record does not contain personal identifying information.

(h) The director shall establish standards for DNA analysis by the DNA laboratory that meet or exceed the current standards for quality assurance and proficiency testing for forensic DNA analysis issued by the FBI. The DNA database may contain only DNA records of DNA analyses performed according to the standards adopted by the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 2, Sec. 4, eff. April 5, 2001; Acts 2005, 79th Leg., ch. 1224, Sec. 5, eff. Sept. 1, 2005.

Sec. 411.143. PURPOSES. (a) The principal purpose of the DNA database is to assist a federal, state, or local criminal justice agency in the investigation or prosecution of sex-related offenses or other offenses in which biological evidence is recovered.

(b) In criminal cases, the purposes of the DNA database are only for use in the investigation of an offense, the exclusion or identification of suspects or offenders, and the prosecution or defense of the case.

(c) Other purposes of the database include:

(1) assisting in the recovery or identification of human remains from a disaster or for humanitarian purposes;

(2) assisting in the identification of living or deceased missing persons;

(3) if personal identifying information is removed:

(A) establishing a population statistics database; and

(B) assisting in identification research, forensic validation studies, or forensic protocol development; and

(4) retesting to validate or update the original analysis or assisting in database or DNA laboratory quality control.

(d) The information contained in the DNA database may not be collected, analyzed, or stored to obtain information about human physical traits or predisposition for disease unless the purpose for obtaining the information is related to a purpose described by this section.

(e) The director may not store a name or other personal identifying information in the CODIS database. A file or reference number to another information system may be included in the CODIS database only if the director determines the information is necessary to:

(1) generate an investigative lead or exclusion;

(2) support the statistical interpretation of a test result; or

(3) allow for the successful implementation of the DNA database.

(f) Except as provided by this subchapter, the DNA database may not include criminal history record information.

(g) A party contracting to carry out a function of another entity under this subchapter shall comply with:

(1) a requirement imposed by this subchapter on the other entity, unless the party or other entity is exempted by the director; and

(2) any additional requirement imposed by the director on the party.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 6, eff. Sept. 1, 2005.

Sec. 411.144. REGULATION OF DNA LABORATORIES; PENALTIES. (a) The director by rule shall establish procedures for a DNA laboratory or criminal justice agency in the collection, preservation, shipment, analysis, and use of a DNA sample for forensic DNA analysis in a manner that permits the exchange of DNA evidence between DNA laboratories and the use of the evidence in a criminal case.

(b) A DNA laboratory or criminal justice agency shall follow the procedures:

(1) established by the director under this section;

and

(2) specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies, and computer software.

(c) The director may at any reasonable time enter and inspect the premises or audit the records, reports, procedures, or other quality assurance matters of any DNA laboratory that:

(1) provides DNA records to the director under this subchapter; or

(2) conducts forensic analysis.

(d) A DNA laboratory conducting a forensic DNA analysis under this subchapter shall:

(1) forward the DNA record of the analysis to the director at the department's crime laboratory or another location as required by the director; and

(2) comply with this subchapter and rules adopted under this subchapter.

(e) The director is the Texas liaison for DNA data, records, evidence, and other related matters between:

(1) the FBI; and

(2) a DNA laboratory or a criminal justice agency.

(f) The director may:

(1) conduct DNA analyses; or

(2) contract with a laboratory, state agency, private entity, or institution of higher education for services to perform DNA analyses for the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 7, eff. Sept. 1, 2005.

Sec. 411.145. FEES. (a) The director may collect a reasonable fee under this subchapter for:

(1) the DNA analysis of a DNA sample submitted voluntarily to the director; or

(2) providing population statistics data or other appropriate research data.

(b) If the director provides a copy of an audit or other report made under this subchapter, the director may charge \$6 for the copy, in addition to any other cost permitted under Chapter 552 or a rule adopted under that chapter.

(c) A fee collected under this section shall be deposited in the state treasury to the credit of the state highway fund, and money deposited to the state highway fund under this section and under Articles 42.12 and 102.020(h), Code of Criminal Procedure, may be used only to defray the cost of administering this subchapter and Section 411.0205.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 1224, Sec. 8, eff. Sept. 1, 2005.

Sec. 411.146. DNA SAMPLES. (a) The director may not accept a DNA record or DNA sample collected from an individual who at the time of collection is alive, unless the director reasonably believes the sample was submitted voluntarily or as required by this subchapter and is:

(1) a blood sample collected in a medically approved manner by:

(A) a physician, registered nurse, licensed vocational nurse, licensed clinical laboratory technologist; or

(B) an individual who is trained to properly collect blood samples under this subchapter; or

(2) a specimen other than a blood sample collected:

(A) in a manner approved by the director by rule adopted under this section; and

(B) by an individual who is trained to properly collect the specimen under this subchapter.

(b) The director shall provide at no cost to a person collecting a DNA sample as described by Subsection (a) the collection kits, labels, report forms, instructions, and training for collection of DNA samples under this section.

(c)(1) The director shall adopt rules regarding the collection, preservation, shipment, and analysis of a DNA database sample under this subchapter, including the type of sample or specimen taken.

(2) A criminal justice agency permitted or required to collect a DNA sample for forensic DNA analysis under this subchapter:

(A) may collect the sample or contract with a phlebotomist, laboratory, state agency, private entity, or institution of higher education for services to collect the sample at the time determined by the agency; and

(B) shall:

(i) preserve each sample collected until it is forwarded to the director under Subsection (d); and

(ii) maintain a record of the collection of the sample.

(d) A criminal justice agency that collects a DNA sample under this section shall send the sample to:

(1) the director at the department's crime laboratory; or

(2) another location as required by the director by rule.

(e) A DNA laboratory may analyze a DNA sample collected under this section only:

(1) to type the genetic markers contained in the sample;

(2) for criminal justice or law enforcement purposes; or

(3) for other purposes described by this subchapter.

(f) If possible, a second DNA sample must be collected from an individual in a criminal investigation if forensic DNA evidence is necessary for use as substantive evidence in the investigation, prosecution, or defense of a case.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 9, eff. Sept. 1, 2005.

Sec. 411.147. ACCESS TO DNA DATABASE INFORMATION. (a) The director by rule shall establish procedures:

(1) to prevent unauthorized access to the DNA database; and

(2) to release from the DNA database a DNA sample, analysis, record, or other information maintained under this subchapter.

(b) The director may adopt rules relating to the internal disclosure, access, or use of a sample or DNA record in a DNA laboratory.

(c) The director may release a DNA sample, analysis, or record only:

(1) to a criminal justice agency for criminal justice or law enforcement identification purposes;

(2) for a judicial proceeding, if otherwise admissible under law;

(3) for criminal defense purposes to a defendant, if related to the case in which the defendant is charged or released from custody under Article 17.47, Code of Criminal Procedure, or other court order; or

(4) for another purpose:

(A) described in Section 411.143; or

(B) required under federal law as a condition for obtaining federal funding.

(d) The director may release a record of the number of requests made for a defendant's individual DNA record and the name of the requesting person.

(e) A criminal justice agency may have access to a DNA sample for a law enforcement purpose through:

(1) the agency's laboratory; or

(2) a laboratory used by the agency.

(f) The director shall maintain a record of requests made under this section.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 10, eff. Sept. 1, 2005.

Sec. 411.1471. DNA RECORDS OF PERSONS CHARGED WITH OR CONVICTED OF CERTAIN FELONIES. (a) This section applies to a defendant who is:

(1) indicted or waives indictment for a felony prohibited or punishable under any of the following Penal Code sections:

(A) Section 20.04(a)(4);

(B) Section 21.11;

(C) Section 22.011;

(D) Section 22.021;

- (E) Section 25.02;
- (F) Section 30.02(d);
- (G) Section 43.05;
- (H) Section 43.25; or
- (I) Section 43.26;

(2) arrested for a felony described by Subdivision (1) after having been previously convicted of or placed on deferred adjudication for an offense described by Subdivision (1) or an offense punishable under Section 30.02(c)(2), Penal Code; or

(3) convicted of an offense under Section 21.07 or 21.08, Penal Code.

(b) After a defendant described by Subsection (a)(1) is indicted or waives indictment, the court in which the case is pending shall require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record. A law enforcement agency arresting a defendant described by Subsection (a)(2), immediately after fingerprinting the defendant and at the same location as the fingerprinting occurs, shall require the defendant to provide one or more specimens for the purpose of creating a DNA record. After a defendant described by Subsection (a)(3) is convicted or placed on deferred adjudication, the court shall require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record.

(c) A defendant described by Subsection (a)(1) or (3) may at any time voluntarily provide a specimen for the purposes described by Subsection (b).

(d) The director by rule shall require law enforcement agencies taking a specimen under this section to preserve the specimen and maintain a record of the collection of the specimen. A law enforcement agency taking a specimen under this section may use any method to take the specimen approved by the director in the rule adopted under this subsection. The rule adopted by the director must prohibit a law enforcement agency from taking a blood sample for the purpose of creating a DNA record under this section. The agency may either send the specimen to the director or send to the director an analysis of the sample performed at a laboratory chosen by the agency and approved by the director.

(e) Notwithstanding Subsection (d), on acquittal of a defendant described by Subsection (a)(1) or (2) or dismissal of the case against the defendant, the court shall order the law enforcement agency taking the specimen to immediately destroy the record of the collection of the specimen and require the department to destroy the specimen and the record of its receipt.

(f) A defendant who provides a specimen under this section is not required to provide a specimen under Section 411.1472 or provide a sample or specimen under Section 411.148 or 411.150 unless an attorney representing the state in the prosecution of felony offenses establishes to the satisfaction of the director that the interests of justice or public safety require that the defendant provide additional samples or specimens.

Added by Acts 2001, 77th Leg., ch. 1490, Sec. 2, eff. Sept. 1, 2001.

Sec. 411.1473. DNA RECORDS OF CERTAIN REGISTERED SEX OFFENDERS. (a) This section applies only to a person who is required to register under Chapter 62, Code of Criminal Procedure.

(b) The department by rule shall require a law enforcement agency serving as a person's primary registration authority under Chapter 62, Code of Criminal Procedure, to:

(1) take one or more specimens from a person described by Subsection (a) for the purpose of creating a DNA record; and

(2) preserve the specimen and maintain a record of the collection of the specimen.

(c) A law enforcement agency taking a specimen under this section may either send the specimen to the director or send to the director an analysis of the specimen performed by a laboratory chosen by the agency and approved by the director.

(d) A law enforcement agency is not required to take and a person is not required to provide a specimen under this section if the person is required to and has provided a specimen under this chapter or other law.

Added by Acts 2005, 79th Leg., ch. 1008, Sec. 1.05, eff. Sept. 1, 2005.

Sec. 411.148. MANDATORY DNA RECORD.

Text of section as reenacted and amended by Acts 2005, 79th Leg., ch. 1224, Sec. 11.

(a) This section applies to:

- (1) an individual who is:
 - (A) ordered by a magistrate or court to provide a sample under Section 411.150 or 411.154 or other law; or
 - (B) confined in a penal institution operated by or under contract with the Texas Department of Criminal Justice; or
- (2) a juvenile who is, after an adjudication for conduct constituting a felony, confined in a facility operated by or under contract with the Texas Youth Commission.

(b) An individual described by Subsection (a) shall provide one or more DNA samples for the purpose of creating a DNA record.

(c) A criminal justice agency shall collect a sample ordered by a magistrate or court in compliance with the order.

(d) If an individual described by Subsection (a)(1)(B) is received into custody by the Texas Department of Criminal Justice, that department shall collect the sample from the individual during the diagnostic process or at another time determined by the Texas Department of Criminal Justice.

(e) If an individual described by Subsection (a)(2) is received into custody by the Texas Youth Commission, the youth commission shall collect the sample from the individual during the initial examination or at another time determined by the youth commission.

(f) The Texas Department of Criminal Justice shall notify the director that an individual described by Subsection (a) is to be released from custody not earlier than the 120th day before the individual's release date and not later than the 90th day before the individual's release date. The Texas Youth Commission shall notify the director that an individual described by Subsection (a) is to be released from custody not earlier than the 10th day before the individual's release date. The Texas Department of Criminal Justice and the Texas Youth Commission, in consultation with the director, shall determine the form of the notification described by this subsection.

(g) A medical staff employee of a criminal justice agency may collect a voluntary sample from an individual at any time.

(h) An employee of a criminal justice agency may use force against an individual required to provide a DNA sample under this section when and to the degree the employee reasonably believes the force is immediately necessary to collect the sample.

(i)(1) The Texas Department of Criminal Justice as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(1)(B) if:

- (A) the individual is confined in another penal institution after sentencing and before admission to the department; and
- (B) the department determines that the individual is likely to be released before being admitted to the department.

(2) The administrator of the other penal institution shall cooperate with the Texas Department of Criminal Justice as necessary to allow the Texas Department of Criminal Justice to perform its duties under this subsection.

(j)(1) The Texas Youth Commission as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(2) if:

- (A) the individual is detained in another juvenile detention facility after adjudication and before admission to the youth commission; and
- (B) the youth commission determines the individual is likely to be released before being admitted to the youth commission.

(2) The administrator of the other juvenile detention facility shall cooperate with the Texas Youth Commission as necessary to allow the youth commission to perform its duties under this subsection.

(k) When a criminal justice agency of this state agrees to accept custody of an individual from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency, the acceptance is conditional on the individual providing a DNA sample under this subchapter if the individual was convicted of a felony.

(l) If, in consultation with the director, it is determined that an acceptable sample has already been received from an individual, additional samples are not required unless requested by

the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1368, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 211, Sec. 14, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1509, Sec. 1, 2. Reenacted and amended by Acts 2005, 79th Leg., ch. 1224, Sec. 11, eff. Sept. 1, 2005.

For text of section as reenacted and amended by Acts 2005, 79th Leg., ch. 1245, Sec. 1, see Sec. 411.148, post.

Sec. 411.148. DNA RECORDS OF CERTAIN INMATES.

Text of section as reenacted and amended by Acts 2005, 79th Leg., ch. 1245, Sec. 1.

(a) An inmate serving a sentence for a felony in the institutional division shall provide one or more blood samples or other specimens for the purpose of creating a DNA record.

(b) The institutional division shall obtain the sample or specimen from an inmate of the division during the diagnostic process. The institutional division shall obtain the sample or specimen from an inmate confined in another penal institution as soon as practicable if the Board of Pardons and Paroles informs the division that the inmate is likely to be paroled before being admitted to the division. The administrator of the other penal institution shall cooperate with the institutional division as necessary to allow the institutional division to perform its duties under this section.

(c) The institutional division shall:

(1) preserve each blood sample or other specimen collected;

(2) maintain a record of the collection of the sample or specimen; and

(3) send the sample or specimen to the director for scientific analysis under this subchapter.

(d) An inmate may not be held past the inmate's statutory release date if the inmate fails or refuses to provide a blood sample or other specimen under this section. A penal institution may take lawful administrative action, including disciplinary action resulting in the loss of good conduct time, against an inmate who refuses to provide a blood sample or other specimen under this section.

(e) The institutional division shall notify the director that an inmate described by Subsection (a) is to be released from the institutional division not earlier than the 120th day before the inmate's statutory release date and not later than the 90th day before the inmate's statutory release date. In Subsection (d) and this subsection, "statutory release date" means the date on which an inmate is discharged from the inmate's controlling sentence.

(f) A medical staff employee of the institutional division may obtain a voluntary sample or specimen from any inmate.

(g) An employee of the institutional division may use force against an inmate required to provide a sample under this section when and to the degree the employee reasonably believes the force is immediately necessary to obtain the sample or specimen.

(h) The Texas Department of Criminal Justice may contract with an individual or entity for the provision of phlebotomy services under this section.

(i) Notwithstanding Subsection (a), if at the beginning of a fiscal year the executive director of the Texas Department of Criminal Justice determines that sufficient funds have not been appropriated to the department to obtain a sample from each inmate otherwise required to provide a sample under Subsection (a), the executive director shall direct the institutional division to give priority to obtaining samples from inmates ordered by a court to give the sample or specimen or serving sentences for:

(1) an offense:

(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);

(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(C) for which the inmate is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(2) any offense if the inmate has previously been convicted of or adjudicated as having engaged in:

(A) an offense described in Subdivision (1); or

(B) an offense under federal law or laws of

another state that involves the same conduct as an offense described by Subdivision (1).

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1368, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 211, Sec. 14, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1509, Sec. 1, 2. Reenacted and amended by Acts 2005, 79th Leg., ch. 1245, Sec. 1, eff. Sept. 1, 2005.

For text of section as reenacted and amended by Acts 2005, 79th Leg., ch. 1224, Sec. 11, see Sec. 411.148, ante.

Sec. 411.149. VOLUNTARY DNA RECORD. An individual, including an individual required to provide a DNA sample under this subchapter, may at any time voluntarily provide or cause to be provided to a criminal justice agency a sample to be forwarded to the director for the purpose of creating a DNA record under this subchapter.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 12, eff. Sept. 1, 2005.

Sec. 411.150. DNA RECORDS OF CERTAIN JUVENILES. (a) A juvenile who is committed to the Texas Youth Commission shall provide one or more blood samples or other specimens taken by or at the request of the commission for the purpose of creating a DNA record if the juvenile has not already provided the required specimen under other state law and if the juvenile is ordered by a juvenile court to give the sample or specimen or is committed to the commission for an adjudication as having engaged in delinquent conduct that violates:

(1) an offense:

(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);

(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(C) for which the juvenile is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(2) a penal law if the juvenile has previously been convicted of or adjudicated as having engaged in:

(A) a violation of a penal law described in Subsection (a)(1); or

(B) a violation of a penal law under federal law or the laws of another state that involves the same conduct as a violation of a penal law described by Subsection (a)(1).

(b) The department, in conjunction with the Texas Youth Commission, shall adopt rules regarding the collection, preservation, and shipment of a blood sample or other specimen of a juvenile described by this section.

(c) The Texas Youth Commission shall:

(1) obtain blood samples or other specimens from juveniles under this section;

(2) preserve each sample or other specimen collected;

(3) maintain a record of the collection of the sample or specimen; and

(4) send the sample or specimen to the director for scientific analysis under this subchapter.

(d) A medical staff employee of the Texas Youth Commission may obtain a voluntary sample or specimen from any juvenile.

(e) An employee of the Texas Youth Commission may use force against a juvenile required to provide a sample under this section when and to the degree the employee reasonably believes the force is immediately necessary to obtain the sample or specimen.

(f) The Texas Youth Commission may contract with an individual or entity for the provision of phlebotomy services under this section.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1063, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1368, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 211, Sec. 15, eff. Sept. 1, 2001.

Sec. 411.151. EXPUNCTION OR REMOVAL OF DNA RECORDS. (a) The director shall expunge a DNA record of an individual from a DNA database if the person:

(1) notifies the director in writing that the DNA record has been ordered to be expunged under this section or Chapter 55, Code of Criminal Procedure, and provides the director with a

certified copy of the court order that expunges the DNA record; or

(2) provides the director with a certified copy of a court order issued under Section 58.003, Family Code, that seals the juvenile record of the adjudication that resulted in the DNA record.

(b) A person may petition for the expunction of a DNA record under the procedures established under Article 55.02, Code of Criminal Procedure, if the person is entitled to the expunction of records relating to the offense to which the DNA record is related under Article 55.01, Code of Criminal Procedure.

(c) This section does not require the director to expunge a record or destroy a sample if the director determines that the individual is otherwise required to submit a DNA sample under this subchapter.

(d) The director by rule may permit administrative removal of a record, sample, or other information erroneously included in a database.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 283, Sec. 44, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1224, Sec. 13, eff. Sept. 1, 2005.

Sec. 411.152. RULES. (a) The director may adopt rules permitted by this subchapter that are necessary to administer or enforce this subchapter but shall adopt a rule expressly required by this subchapter.

(b) The director by rule may release or permit access to information to confirm or deny whether an individual has a preexisting record under this subchapter. After receiving a request regarding an individual whose DNA record has been expunged or removed under Section 411.151, the director shall deny the preexisting record.

(c) The director by rule may exempt:

(1) a laboratory conducting non-human forensic DNA analysis from a rule adopted under this subchapter; and

(2) certain categories of individuals from a requirement to provide an additional sample after an acceptable DNA record exists for the individual.

(d) The director by rule may determine whether a DNA sample complies with a collection provision of this subchapter.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 14, eff. Sept. 1, 2005.

Sec. 411.153. CONFIDENTIALITY OF DNA RECORDS. (a) A DNA record stored in the DNA database is confidential and is not subject to disclosure under the public information law, Chapter 552.

(b) A person commits an offense if the person knowingly discloses information in a DNA record or information related to a DNA analysis of a sample collected under this subchapter.

(c) An offense under this section is a state jail felony.

(d) A violation under this section constitutes official misconduct.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 3, eff. Sept 1, 2001; Acts 2001, 77th Leg., ch. 1509, Sec. 3. Reenacted and amended by Acts 2005, 79th Leg., ch. 1224, Sec. 15, eff. Sept. 1, 2005.

Sec. 411.154. ENFORCEMENT BY COURT ORDER. (a) On the request of the director, a district or county attorney or the attorney general may petition a district court for an order requiring a person to:

(1) comply with this subchapter or a rule adopted under this subchapter; or

(2) refrain from acting in violation of this subchapter or a rule adopted under this subchapter.

(b) The court may issue an order requiring a person:

(1) to act in compliance with this subchapter or a rule adopted under this subchapter;

(2) to refrain from acting in violation of this subchapter or a rule adopted under this subchapter;

(3) to provide a DNA sample; or

(4) if the person has already provided a DNA sample, to provide another sample if good cause is shown.

(c) An order issued under this section is appealable as a criminal matter and if appealed is to be reviewed under an abuse of discretion standard.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2005, 79th Leg., ch. 1224, Sec. 16, eff. Sept. 1, 2005.

SUBCHAPTER H. LICENSE TO CARRY A CONCEALED HANDGUN

Sec. 411.171. DEFINITIONS. In this subchapter:

(1) "Action" means single action, revolver, or semi-automatic action.

(2) "Chemically dependent person" means a person who frequently or repeatedly becomes intoxicated by excessive indulgence in alcohol or uses controlled substances or dangerous drugs so as to acquire a fixed habit and an involuntary tendency to become intoxicated or use those substances as often as the opportunity is presented.

(3) "Concealed handgun" means a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

(4) "Convicted" means an adjudication of guilt or, except as provided in Section 411.1711, an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently:

(A) expunged; or

(B) pardoned under the authority of a state or federal official.

(5) "Handgun" has the meaning assigned by Section 46.01, Penal Code.

(6) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(7) "Qualified handgun instructor" means a person who is certified to instruct in the use of handguns by the department.

(8) Repealed by Acts 1999, 76th Leg., ch. 62, Sec. 9.02(a), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.01(a), 9.02(a), eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 1084, Sec. 1, eff. Sept. 1, 2005.

Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A person is not convicted, as that term is defined by Section 411.171, if an order of deferred adjudication was entered against the person on a date not less than 10 years preceding the date of the person's application for a license under this subchapter unless the order of deferred adjudication was entered against the person for an offense under Title 5, Penal Code, or Chapter 29, Penal Code.

Added by Acts 2005, 79th Leg., ch. 1084, Sec. 2, eff. Sept. 1, 2005.

Sec. 411.172. ELIGIBILITY. (a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;

(12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;

(13) is not currently restricted under a court

protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;

(14) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(15) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174 or in a request for application submitted pursuant to Section 411.175.

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) a felony if the offense, at the time of a person's application for a license to carry a concealed handgun:

(A) is designated by a law of this state as a felony;

(B) contains all the elements of an offense designated by a law of this state as a felony; or

(C) is punishable by confinement for one year or more in a penitentiary; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(c) An individual who has been convicted two times within the 10-year period preceding the date on which the person applies for a license of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a license under this subchapter. This subsection does not preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to show that the person is a chemically dependent person.

(d) For purposes of Subsection (a)(7), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

(1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician or declared by a court to be incompetent to manage the person's own affairs; or

(4) has entered in a criminal proceeding a plea of not guilty by reason of insanity.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

(1) involuntary psychiatric hospitalization in the preceding five-year period;

(2) psychiatric hospitalization in the preceding two-year period;

(3) inpatient or residential substance abuse treatment in the preceding five-year period;

(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(A) schizophrenia or delusional disorder;

(B) bipolar disorder;

(C) chronic dementia, whether caused by illness, brain defect, or brain injury;

(D) dissociative identity disorder;

(E) intermittent explosive disorder; or

(F) antisocial personality disorder.

(f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection

(e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

(g) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a concealed handgun if the person:

(1) is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard;

(2) was discharged under honorable conditions, if discharged from the United States armed forces, reserves, or national guard; and

(3) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a handgun.

(h) The issuance of a license to carry a concealed handgun to a person eligible under Subsection (g) does not affect the person's ability to purchase a handgun or ammunition under federal law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.03(a), 9.04(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 486, Sec. 1, eff. Sept. 1, 2005.

Sec. 411.173. NONRESIDENT LICENSE. (a) The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant. A license issued in accordance with the procedure established under this subsection:

(1) remains in effect until the license expires under Section 411.183; and

(2) may be renewed under Section 411.185.

(a-1) Repealed by Acts 2005, 79th Leg., ch. 915, Sec. 4.

(b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a license issued by the other state is recognized in this state if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued. For purposes of this subsection, "background check" means a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation.

(c) The attorney general of the State of Texas shall annually:

(1) submit a report to the governor, lieutenant governor, and speaker of the house of representatives listing the states the attorney general has determined qualify for recognition under Subsection (b); and

(2) review the statutes of states that the attorney general has determined do not qualify for recognition under Subsection (b) to determine the changes to their statutes that are necessary to qualify for recognition under that subsection.

(d) The attorney general of the State of Texas shall submit the report required by Subsection (c)(1) not later than January 1 of each calendar year.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.05(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 752, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 915, Sec. 1, 2, and 4, eff. Sept. 1, 2005.

Sec. 411.174. APPLICATION. (a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 411.176:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b);

(2) two recent color passport photographs of the applicant, except that an applicant who is younger than 21 years of age must submit two recent color passport photographs in profile of the applicant;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) a handgun proficiency certificate described by Section 411.189;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section 411.172; and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 411.172(a).

(b) An applicant must provide on the application a statement of the applicant's:

(1) full name and place and date of birth;

(2) race and sex;

(3) residence and business addresses for the preceding five years;

(4) hair and eye color;

(5) height and weight;

(6) driver's license number or identification certificate number issued by the department;

(7) criminal history record information of the type maintained by the department under this chapter, including a list of offenses for which the applicant was arrested, charged, or under an information or indictment and the disposition of the offenses; and

(8) history during the preceding five years, if any, of treatment received by, commitment to, or residence in:

(A) a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state; or

(B) a psychiatric hospital.

(c) The department shall distribute on request a copy of this subchapter and application materials.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.06(a), eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 486, Sec. 2, eff. Sept. 1, 2005.

Sec. 411.175. REQUEST FOR APPLICATION MATERIALS. (a) A person applying for a license to carry a concealed handgun must apply by obtaining a request for application materials from a handgun dealer, the department, or any other person or entity approved by the department. The request for application materials must include the applicant's full name, address, race, sex, height, date of birth, and driver's license number and such other identifying information as required by department rule. The department shall prescribe the form of the request and make the form available to interested parties. An individual who desires to receive application materials must complete the request for application materials and forward it to the department at its Austin address. The department shall review all requests for

application materials and make a preliminary determination as to whether or not the individual is qualified to receive a handgun license. If an individual is not disqualified to receive a handgun license, the department shall forward to the individual the appropriate application materials. The applicant must complete the application materials and forward the completed materials to the department at its Austin address.

(b) If a preliminary review indicates that an individual will not be qualified to receive a handgun license, the department shall send written notification to that individual. The notice shall provide the reason that the preliminary review indicates that the individual is not entitled to receive a handgun license. The department shall give the individual an opportunity to correct whatever defect may exist.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On receipt of the application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation described by Subsection (b).

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than the 60th day after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters. The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 411.172. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued. On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary if a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than the 180th day after the date the department receives the application materials from the applicant. Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.07(a), eff. Sept. 1, 1999.

Sec. 411.177. ISSUANCE OR DENIAL OF LICENSE. (a) The department shall issue a license to carry a concealed handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department may issue a license to carry handguns only of the categories indicated on the applicant's certificate of proficiency issued under Section 411.189. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b) The department shall, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials:

- (1) issue the license;
- (2) notify the applicant in writing that the

application was denied:

(A) on the grounds that the applicant failed to qualify under the criteria listed in Section 411.172;

(B) based on the affidavit of the director's designee submitted to the department under Section 411.176(b); or

(C) based on the affidavit of the qualified handgun instructor submitted to the department under Section 411.189(c); or

(3) notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the amount of time the department will need to make the determination.

(c) Failure of the department to issue or deny a license for a period of more than 30 days after the department is required to act under Subsection (b) constitutes denial.

(d) A license issued under this subchapter is effective from the date of issuance.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.08(a), eff. Sept. 1, 1999.

Sec. 411.178. NOTICE TO LOCAL LAW ENFORCEMENT. On request of a local law enforcement agency, the department shall notify the agency of the licenses that have been issued to license holders who reside in the county in which the agency is located.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 14, eff. Sept. 1, 1999.

Sec. 411.179. FORM OF LICENSE. (a) The department by rule shall adopt the form of the license. A license must include:

(1) a number assigned to the license holder by the department;

(2) a statement of the period for which the license is effective;

(3) a statement of the category or categories of handguns the license holder may carry as provided by Subsection (b);

(4) a color photograph of the license holder; and

(5) the license holder's full name, date of birth, residence address, hair and eye color, height, weight, signature, and the number of a driver's license or an identification certificate issued to the license holder by the department.

(b) A category of handguns contains handguns that are not prohibited by law and are of certain actions. The categories of handguns are:

(1) SA: any handguns, whether semi-automatic or not; and

(2) NSA: handguns that are not semi-automatic.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.180. NOTIFICATION OF DENIAL, REVOCATION, OR SUSPENSION OF LICENSE; REVIEW. (a) The department shall give written notice to each applicant for a handgun license of any denial, revocation, or suspension of that license. Not later than the 30th day after the notice is received by the applicant, according to the records of the department, the applicant or license holder may request a hearing on the denial, revocation, or suspension. The applicant must make a written request for a hearing addressed to the department at its Austin address. The request for hearing must reach the department in Austin prior to the 30th day after the date of receipt of the written notice. On receipt of a request for hearing from a license holder or applicant, the department shall promptly schedule a hearing in the appropriate justice court in the county of residence of the applicant or license holder. The justice court shall conduct a hearing to review the denial, revocation, or suspension of the license. In a proceeding under this section, a justice of the peace shall act as an administrative hearing officer. A hearing under this section is not subject to Chapter 2001 (Administrative Procedure Act). A district attorney or county attorney, the attorney general, or a designated member of the department may represent the department.

(b) The department, on receipt of a request for hearing, shall file the appropriate petition in the justice court selected for the hearing and send a copy of that petition to the applicant or

license holder at the address contained in departmental records. A hearing under this section must be scheduled within 30 days of receipt of the request for a hearing. The hearing shall be held expeditiously but in no event more than 60 days after the date that the applicant or license holder requested the hearing. The date of the hearing may be reset on the motion of either party, by agreement of the parties, or by the court as necessary to accommodate the court's docket.

(c) The justice court shall determine if the denial, revocation, or suspension is supported by a preponderance of the evidence. Both the applicant or license holder and the department may present evidence. The court shall affirm the denial, revocation, or suspension if the court determines that denial, revocation, or suspension is supported by a preponderance of the evidence. If the court determines that the denial, revocation, or suspension is not supported by a preponderance of the evidence, the court shall order the department to immediately issue or return the license to the applicant or license holder.

(d) A proceeding under this section is subject to Chapter 105, Civil Practice and Remedies Code, relating to fees, expenses, and attorney's fees.

(e) A party adversely affected by the court's ruling following a hearing under this section may appeal the ruling by filing within 30 days after the ruling a petition in a county court at law in the county in which the applicant or license holder resides or, if there is no county court at law in the county, in the county court of the county. A person who appeals under this section must send by certified mail a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the appropriate division of the department at its Austin headquarters. The trial on appeal shall be a trial de novo without a jury. A district or county attorney or the attorney general may represent the department.

(f) A suspension of a license may not be probated.

(g) If an applicant or a license holder does not petition the justice court, a denial becomes final and a revocation or suspension takes effect on the 30th day after receipt of written notice.

(h) The department may use and introduce into evidence certified copies of governmental records to establish the existence of certain events that could result in the denial, revocation, or suspension of a license under this subchapter, including records regarding convictions, judicial findings regarding mental competency, judicial findings regarding chemical dependency, or other matters that may be established by governmental records that have been properly authenticated.

(i) This section does not apply to a suspension of a license under Section 85.022, Family Code, or Article 17.292, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1412, Sec. 5, eff. Sept. 1, 1999.

Sec. 411.181. NOTICE OF CHANGE OF ADDRESS OR NAME. (a) If a person who is a current license holder moves from the address stated on the license or if the name of the person is changed by marriage or otherwise, the person shall, not later than the 30th day after the date of the address or name change, notify the department and provide the department with the number of the person's license and the person's:

- (1) former and new addresses; or
- (2) former and new names.

(b) If the name of the license holder is changed by marriage or otherwise, the person shall apply for a duplicate license.

(c) If a license holder moves from the address stated on the license, the person shall apply for a duplicate license.

(d) The department shall charge a license holder a fee of \$25 for a duplicate license.

(e) The department shall make the forms available on request.

(f) On request of a local law enforcement agency, the department shall notify the agency of changes made under Subsection (a) by license holders who reside in the county in which the agency is located.

(g) If a license is lost, stolen, or destroyed, the license holder shall apply for a duplicate license not later than the 30th

day after the date of the loss, theft, or destruction of the license.

(h) If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss, theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. The applicant must pay only the nonrefundable renewal fee.

(i) A license holder whose application fee for a duplicate license under this section is dishonored or reversed may reapply for a duplicate license at any time, provided the application fee and a dishonored payment charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 15, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 1065, Sec. 3, eff. Sept. 1, 2005.

Sec. 411.182. NOTICE. (a) For the purpose of a notice required by this subchapter, the department may assume that the address currently reported to the department by the applicant or license holder is the correct address.

(b) A written notice meets the requirements under this subchapter if the notice is sent by certified mail to the current address reported by the applicant or license holder to the department.

(c) If a notice is returned to the department because the notice is not deliverable, the department may give notice by publication once in a newspaper of general interest in the county of the applicant's or license holder's last reported address. On the 31st day after the date the notice is published, the department may take the action proposed in the notice.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.183. EXPIRATION. (a) A license issued under this subchapter expires on the first birthday of the license holder occurring after the fourth anniversary of the date of issuance.

(b) A renewed license expires on the license holder's birthdate, five years after the date of the expiration of the previous license.

(c) A duplicate license expires on the date the license that was duplicated would have expired.

(d) A modified license expires on the date the license that was modified would have expired.

(e) Expired.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 915, Sec. 3, eff. Sept. 1, 2005.

Sec. 411.184. MODIFICATION. (a) To modify a license to allow a license holder to carry a handgun of a different category than the license indicates, the license holder must:

(1) complete a proficiency examination as provided by Section 411.188(e);

(2) obtain a handgun proficiency certificate under Section 411.189 not more than six months before the date of application for a modified license; and

(3) submit to the department:

(A) an application for a modified license on a form provided by the department;

(B) a copy of the handgun proficiency certificate;

(C) payment of a modified license fee of \$25; and

(D) two recent color passport photographs of the license holder, except that an applicant who is younger than 21 years of age must submit two recent color passport photographs in profile of the applicant.

(b) The director by rule shall adopt a modified license application form requiring an update of the information on the original completed application.

(c) The department may modify the license of a license holder who meets all the eligibility requirements and submits all the modification materials. Not later than the 45th day after receipt of the modification materials, the department shall issue the modified license or notify the license holder in writing that the modified license application was denied.

(d) On receipt of a modified license, the license holder shall return the previously issued license to the department.

(e) A license holder whose application fee for a modified license under this section is dishonored or reversed may reapply for a modified license at any time, provided the application fee and a dishonored payment charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 486, Sec. 3, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 1065, Sec. 4, eff. Sept. 1, 2005.

Sec. 411.185. RENEWAL. (a) To renew a license, a license holder must:

(1) complete a continuing education course in handgun proficiency under Section 411.188(c) not more than six months before the date of application for renewal;

(2) obtain a handgun proficiency certificate under Section 411.189 not more than six months before the date of application for renewal; and

(3) submit to the department:

(A) an application for renewal on a form provided by the department;

(B) a copy of the handgun proficiency certificate;

(C) payment of a nonrefundable renewal fee as set by the department; and

(D) two recent color passport photographs of the applicant.

(b) The director by rule shall adopt a renewal application form requiring an update of the information on the original completed application. The director by rule shall set the renewal fee in an amount that is sufficient to cover the actual cost to the department to renew a license. Not later than the 60th day before the expiration date of the license, the department shall mail to each license holder a written notice of the expiration of the license and a renewal form.

(c) The department shall renew the license of a license holder who meets all the eligibility requirements and submits all the renewal materials. Not later than the 45th day after receipt of the renewal materials, the department shall issue the renewal or notify the license holder in writing that the renewal application was denied.

(d) The director by rule shall adopt a procedure by which a license holder who satisfies the eligibility criteria may renew a license by mail. The materials for renewal by mail must include a form to be signed and returned to the department by the applicant that describes state law regarding:

(1) the use of deadly force; and

(2) the places where it is unlawful for the holder of a license issued under this subchapter to carry a concealed handgun.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.186. REVOCATION. (a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) gave false information on the application;

(3) subsequently becomes ineligible for a license under Section 411.172, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(4) is convicted of an offense under Section 46.035, Penal Code;

(5) is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason; or

(6) submits an application fee that is dishonored or reversed.

(b) If a peace officer believes a reason listed in Subsection (a) to revoke a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the revocation of the license and giving the department all of the information available to the officer at the

time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of revocation from the department, unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the revocation as provided by Section 411.180. If a request is made for the justice court to review the revocation and hold a hearing, the license holder shall surrender the license on the date an order of revocation is entered by the justice court.

(c) A license holder whose license is revoked for a reason listed in Subsections (a)(1)-(5) may reapply as a new applicant for the issuance of a license under this subchapter after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause for revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for revocation no longer exists and has not existed for a period of two years.

(d) A license holder whose license is revoked under Subsection (a)(6) may reapply for an original or renewed license at any time, provided the application fee and a dishonored payment charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.09(a), eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 1065, Sec. 2, eff. Sept. 1, 2005.

Sec. 411.187. SUSPENSION OF LICENSE. (a) A license may be suspended under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(2) fails to display a license as required by Section 411.205;

(3) fails to notify the department of a change of address or name as required by Section 411.181;

(4) carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry;

(5) fails to return a previously issued license after a license is modified as required by Section 411.184(d);

(6) commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or

(7) is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.

(b) If a peace officer believes a reason listed in Subsection (a) to suspend a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the suspension of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and the attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of suspension from the department unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in

which the license holder resides review the suspension as provided by Section 411.180. If a request is made for the justice court to review the suspension and hold a hearing, the license holder shall surrender the license on the date an order of suspension is entered by the justice court.

(c) A license may be suspended under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(3), (4), or (5), except as provided by Subdivision (3);

(2) for 90 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), except as provided by Subdivision (3);

(3) for not less than one year and not more than three years if the person's license is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1), and the person's license has been previously suspended for the same reason;

(4) until dismissal of the charges if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(5) for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(6); or

(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(7).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.10(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1412, Sec. 6, eff. Sept. 1, 1999.

Sec. 411.188. HANDGUN PROFICIENCY REQUIREMENT. (a) The director by rule shall establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification. An applicant may not be certified unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a handgun of .32 caliber or above. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.

(b) Only a qualified handgun instructor may administer a handgun proficiency course. The handgun proficiency course must include at least 10 hours and not more than 15 hours of instruction on:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(c) The department by rule shall develop a continuing education course in handgun proficiency for a license holder who wishes to renew a license. Only a qualified handgun instructor may administer the continuing education course. The course must include:

(1) at least four hours of instruction on one or more of the subjects listed in Subsection (b); and

(2) other information the director determines is appropriate.

(d) Only a qualified handgun instructor may administer the proficiency examination to obtain or to renew a license. The proficiency examination must include:

(1) a written section on the subjects listed in Subsection (b); and

(2) a physical demonstration of proficiency in the use of one or more handguns of specific categories and in handgun safety procedures.

(e) Only a qualified handgun instructor may administer the proficiency examination to modify a license. The proficiency examination must include a physical demonstration of the proficiency in the use of one or more handguns of specific categories and in handgun safety procedures.

(f) The department shall develop and distribute directions and materials for course instruction, test administration, and recordkeeping. All test results shall be sent to the department, and the department shall maintain a record of the results.

(g) A person who wishes to obtain or renew a license to carry a concealed handgun must apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency, demonstrate handgun proficiency, and obtain a handgun proficiency certificate as described by Section 411.189.

(h) A license holder who wishes to modify a license to allow the license holder to carry a handgun of a different category than the license indicates must apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency to obtain a handgun proficiency certificate in that category as described by Section 411.189.

(i) A certified firearms instructor of the department may monitor any class or training presented by a qualified handgun instructor. A qualified handgun instructor shall cooperate with the department in the department's efforts to monitor the presentation of training by the qualified handgun instructor. A qualified handgun instructor shall make available for inspection to the department any and all records maintained by a qualified handgun instructor under this subchapter. The qualified handgun instructor shall keep a record of all certificates of handgun proficiency issued by the qualified handgun instructor and other information required by department rule.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a) eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.11(a), eff. Sept. 1, 1999.

Sec. 411.1881. EXEMPTION FROM INSTRUCTION FOR CERTAIN PERSONS. (a) Notwithstanding any other provision of this subchapter, a person may not be required to complete the range instruction portion of a handgun proficiency course to obtain or renew a concealed handgun license issued under this subchapter if the person:

(1) is currently serving in or is honorably discharged from:

(A) the army, navy, air force, coast guard, or marine corps of the United States or an auxiliary service or reserve unit of one of those branches of the armed forces; or

(B) the state military forces, as defined by Section 431.001; and

(2) has, within the five years preceding the date of the person's application for an original or renewed license, as applicable, completed a course of training in handgun proficiency or familiarization as part of the person's service with the armed forces or state military forces.

(b) The director by rule shall adopt a procedure by which a license holder who is exempt under Subsection (a) from the range instruction portion of the handgun proficiency requirement may submit a form demonstrating the license holder's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the license holder qualifies for the exemption.

Added by Acts 2005, 79th Leg., ch. 132, Sec. 1, eff. Sept. 1, 2005.

Sec. 411.189. HANDGUN PROFICIENCY CERTIFICATE. (a) The department shall develop a sequentially numbered handgun proficiency certificate and distribute the certificate to qualified handgun instructors who administer the handgun proficiency examination described in Section 411.188. The department by rule may set a fee not to exceed \$5 to cover the cost of the certificates.

(b) If a person successfully completes the proficiency requirements as described in Section 411.188, the instructor shall endorse a certificate of handgun proficiency provided by the department. An applicant must successfully complete both classroom and range instruction to receive a certificate. The certificate must indicate the category of any handgun for which the applicant demonstrated proficiency during the examination.

(c) A qualified handgun instructor may submit to the

department a written recommendation for disapproval of the application for a license, renewal, or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant is not qualified for handgun proficiency certification. The department may use a written recommendation submitted under this subsection as the basis for denial of a license only if the department determines that the recommendation is made in good faith and is supported by a preponderance of the evidence. The department shall make a determination under this subsection not later than the 45th day after the date the department receives the written recommendation. The 60-day period in which the department must take action under Section 411.177(b) is extended one day for each day a determination is pending under this subsection.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.12(a), eff. Sept. 1, 1999.

Sec. 411.190. QUALIFIED HANDGUN INSTRUCTORS. (a) The director may certify as a qualified handgun instructor a person who:

(1) is certified by the Commission on Law Enforcement Officer Standards and Education or under Chapter 1702, Occupations Code, to instruct others in the use of handguns;

(2) regularly instructs others in the use of handguns and has graduated from a handgun instructor school that uses a nationally accepted course designed to train persons as handgun instructors; or

(3) is certified by the National Rifle Association of America as a handgun instructor.

(b) In addition to the qualifications described by Subsection (a), a qualified handgun instructor must be qualified to instruct persons in:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child.

(c) In the manner applicable to a person who applies for a license to carry a concealed handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor training to the applicant. The applicant shall pay a fee of \$100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall issue a license to carry a concealed handgun under the authority of this subchapter to any person who is certified as a qualified handgun instructor and who pays to the department a fee of \$100 in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(d) The certification of a qualified handgun instructor expires on the second anniversary after the date of certification. To renew a certification, the qualified handgun instructor must pay a fee of \$100 and take and successfully complete the retraining courses required by department rule.

(e) After certification, a qualified handgun instructor may conduct training for applicants for a license under this subchapter.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a concealed handgun with respect to a person who is a qualified handgun instructor or an applicant for certification as a qualified handgun instructor, the department shall take that action against the person's:

(1) license to carry a concealed handgun if the person is an applicant for or the holder of a license issued under this

subchapter; and

(2) certification as a qualified handgun instructor. Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.13(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.758, eff. Sept. 1, 2001.

Sec. 411.191. REVIEW OF DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION AS QUALIFIED HANDGUN INSTRUCTOR. The procedures for the review of a denial, revocation, or suspension of a license under Section 411.180 apply to the review of a denial, revocation, or suspension of certification as a qualified handgun instructor. The notice provisions of this subchapter relating to denial, revocation, or suspension of handgun licenses apply to the proposed denial, revocation, or suspension of a certification of a qualified handgun instructor or an applicant for certification as a qualified handgun instructor. Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.192. CONFIDENTIALITY OF RECORDS. The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. The department shall, on written request and payment of a reasonable fee to cover costs of copying, disclose to any other individual whether a named individual or any individual whose full name is listed on a specified written list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, and zip code. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552, except that the applicant or license holder may be furnished a copy of disclosable records on request and the payment of a reasonable fee. The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the person or agency making the request. This section does not prohibit the department from making public and distributing to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department. Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.193. STATISTICAL REPORT. The department shall make available, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender, race, and zip code of the applicant or license holder. Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.194. REDUCTION OF FEES DUE TO INDIGENCY. (a) Notwithstanding any other provision of this subchapter, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, modified, or renewed license under this subchapter if the department determines that the applicant is indigent.

(b) The department shall require an applicant requesting a reduction of a fee to submit proof of indigency with the application materials.

(c) For purposes of this section, an applicant is indigent if the applicant's income is not more than 100 percent of the applicable income level established by the federal poverty guidelines.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.195. REDUCTION OF FEES FOR SENIOR CITIZENS. Notwithstanding any other provision of this subchapter, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, modified, or renewed license under this subchapter if the applicant for the license is 60 years of age or older.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 289, Sec. 1, eff. Sept. 1, 2005.

Sec. 411.1951. REDUCTION OF FEES FOR MEMBERS OF UNITED STATES ARMED FORCES. Notwithstanding any other provision of this subchapter, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, modified, or renewed license under this subchapter if the applicant for the license is a member of the United States armed forces, including a member of the reserves, national guard, or state guard.

Added by Acts 2005, 79th Leg., ch. 486, Sec. 4, eff. Sept. 1, 2005.

Sec. 411.196. METHOD OF PAYMENT. A person may pay a fee required by this subchapter by cash, credit card, personal check, cashier's check, or money order. A person who pays a fee required by this subchapter by cash must pay the fee in person. Checks or money orders must be made payable to the "Texas Department of Public Safety." A person whose payment for a fee required by this subchapter is dishonored or reversed must pay any future fees required by this subchapter by cashier's check or money order made payable to the "Texas Department of Public Safety." A fee received by the department under this subchapter is nonrefundable.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 1065, Sec. 1, eff. Sept. 1, 2005.

Sec. 411.197. RULES. The director shall adopt rules to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.198. LAW ENFORCEMENT OFFICER ALIAS HANDGUN LICENSE. (a) On written approval of the director, the department may issue to a law enforcement officer an alias license to carry a concealed handgun to be used in supervised activities involving criminal investigations.

(b) It is a defense to prosecution under Section 46.035, Penal Code, that the actor, at the time of the commission of the offense, was the holder of an alias license issued under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.199. HONORABLY RETIRED PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415 and who has been employed full-time as a peace officer by a law enforcement agency may apply for a license under this subchapter at any time after retirement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency employing the applicant. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant before retirement;
- (3) whether or not the applicant was accused of misconduct at the time of the retirement;
- (4) the physical and mental condition of the applicant;

- (5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;

- (6) whether the applicant would be eligible for reemployment with the agency, and if not, the reasons the applicant is not eligible; and

- (7) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant is honorably retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

- (1) did not retire in lieu of any disciplinary action;
- (2) was eligible to retire from the law enforcement agency or was ineligible to retire only as a result of an injury received in the course of the applicant's employment with the agency; and

- (3) is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the applicant does not offer a pension or annuity to its employees.

(d) An applicant under this section must pay a fee of \$25 for a license issued under this subchapter.

(e) A retired peace officer who obtains a license under this subchapter must maintain, for the category of weapon licensed, the proficiency required for a peace officer under Section 415.035. The department or a local law enforcement agency shall allow a retired peace officer of the department or agency an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 411.183.

(g) A retired officer of the United States who was eligible to carry a firearm in the discharge of the officer's official duties is eligible for a license under this section. An applicant described by this subsection may submit the application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

(1) retirement credentials; and

(2) a letter from the agency head stating the applicant retired in good standing.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 25, Sec. 1, eff. May 3, 1999; Acts 1999, 76th Leg., ch. 62, Sec. 9.14, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 196, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.1991. ACTIVE PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415 and is employed full-time as a peace officer by a law enforcement agency may apply for a license under this subchapter. The person shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement of the head of the law enforcement agency employing the applicant. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

(1) the name and rank of the applicant;

(2) whether the applicant has been accused of misconduct at any time during the applicant's period of employment with the agency and the disposition of that accusation;

(3) a description of the physical and mental condition of the applicant;

(4) a list of the types of weapons the applicant has demonstrated proficiency with during the preceding year; and

(5) a recommendation from the agency head that a license be issued to the person under this subchapter.

(b) The department may issue a license under this subchapter to an applicant under this section if the statement from the head of the law enforcement agency employing the applicant complies with Subsection (a) and indicates that the applicant is qualified and physically and mentally fit to carry a handgun.

(c) An applicant under this section shall pay a fee of \$25 for a license issued under this subchapter.

(d) A license issued under this section expires as provided by Section 411.183.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 9.15(a), eff. Sept. 1, 1999.

Sec. 411.200. APPLICATION TO LICENSED SECURITY OFFICERS. This subchapter does not exempt a license holder who is also employed as a security officer and licensed under Chapter 1702, Occupations Code, from the duty to comply with Chapter 1702, Occupations Code, or Section 46.02, Penal Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.759, eff. Sept. 1, 2001.

Sec. 411.201. ACTIVE AND RETIRED JUDICIAL OFFICERS. (a) In this section:

(1) "Active judicial officer" means a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court.

(2) "Retired judicial officer" means:

(A) a special judge appointed under Section 26.023 or 26.024; or

(B) a senior judge designated under Section 75.001 or a judicial officer as designated or defined by Section 75.001, 831.001, or 836.001.

(b) Notwithstanding any other provision of this subchapter, the department shall issue a license under this subchapter to an active or retired judicial officer who meets the requirements of this section.

(c) An active judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter. A retired judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter if the officer:

- (1) has not been convicted of a felony;
- (2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor;
- (3) is not charged with the commission of a Class A or Class B misdemeanor or of a felony under an information or indictment;
- (4) is not a chemically dependent person; and
- (5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

- (1) a completed application on a form prescribed by the department;
- (2) two recent color passport photographs of the applicant;
- (3) a handgun proficiency certificate issued to the applicant as evidence that the applicant successfully completed the proficiency requirements of this subchapter;
- (4) a nonrefundable application and license fee set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a concealed handgun under this subchapter; and
- (5) if the applicant is a retired judicial officer:

(A) two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints; and

(B) a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

(e) On receipt of all the application materials required by this section, the department shall:

- (1) if the applicant is an active judicial officer, issue a license to carry a concealed handgun under the authority of this subchapter; or
- (2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a concealed handgun under the authority of this subchapter.

(f) Except as otherwise provided by this subsection, an applicant for a license under this section must satisfy the handgun proficiency requirements of Section 411.188. The classroom instruction part of the proficiency course for an active judicial officer is not subject to a minimum hour requirement. The instruction must include instruction only on:

- (1) handgun use, proficiency, and safety; and
- (2) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(g) A license issued under this section expires as provided by Section 411.183 and, except as otherwise provided by this subsection, may be renewed in accordance with Section 411.185 of this subchapter. An active judicial officer is not required to attend the classroom instruction part of the continuing education proficiency course to renew a license.

(h) The department shall issue a license to carry a concealed handgun under the authority of this subchapter to an elected attorney representing the state in the prosecution of felony cases who meets the requirements of this section for an active judicial officer. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is an attorney

elected or employed to represent the state in the prosecution of felony cases.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.202. LICENSE A BENEFIT. The issuance of a license under this subchapter is a benefit to the license holder for purposes of those sections of the Penal Code to which the definition of "benefit" under Section 1.07, Penal Code, applies.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter from carrying a concealed handgun on the premises of the business.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.204. NOTICE REQUIRED ON CERTAIN PREMISES. (a) A business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, and that derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code, shall prominently display at each entrance to the business premises a sign that complies with the requirements of Subsection (c).

(b) A hospital licensed under Chapter 241, Health and Safety Code, or a nursing home licensed under Chapter 242, Health and Safety Code, shall prominently display at each entrance to the hospital or nursing home, as appropriate, a sign that complies with the requirements of Subsection (c) other than the requirement that the sign include on its face the number "51".

(c) The sign required under Subsections (a) and (b) must give notice in both English and Spanish that it is unlawful for a person licensed under this subchapter to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid red at least five inches in height. The sign shall be displayed in a conspicuous manner clearly visible to the public.

(d) A business that has a permit or license issued under the Alcoholic Beverage Code and that is not required to display a sign under this section may be required to display a sign under Section 11.041 or 61.11, Alcoholic Beverage Code.

(e) This section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.16(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 523, Sec. 1, eff. June 18, 1999.

Sec. 411.205. DISPLAYING LICENSE; PENALTY. (a) If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 411.187.

(b) A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (a) after previously having had the person's license suspended for a violation of that subsection. An offense under this subsection is a Class B misdemeanor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.17(a), eff. Sept. 1, 1999.

Sec. 411.206. SEIZURE OF HANDGUN AND LICENSE. (a) If a peace officer arrests and takes into custody a license holder who is carrying a handgun under the authority of this subchapter, the officer shall seize the license holder's handgun and license as evidence.

(b) The provisions of Article 18.19, Code of Criminal Procedure, relating to the disposition of weapons seized in connection with criminal offenses, apply to a handgun seized under this subsection.

(c) Any judgment of conviction entered by any court for an offense under Section 46.035, Penal Code, must contain the handgun license number of the convicted license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 411.186(a)(4).
Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.207. AUTHORITY OF PEACE OFFICER TO DISARM. A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a license holder at any time the officer reasonably believes it is necessary for the protection of the license holder, officer, or another individual. The peace officer shall return the handgun to the license holder before discharging the license holder from the scene if the officer determines that the license holder is not a threat to the officer, license holder, or another individual and if the license holder has not violated any provision of this subchapter or committed any other violation that results in the arrest of the license holder.
Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.208. LIMITATION OF LIABILITY. (a) A court may not hold the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor liable for damages caused by:

(1) an action authorized under this subchapter or a failure to perform a duty imposed by this subchapter; or

(2) the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under this subchapter.

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this subchapter.

(c) The department is not responsible for any injury or damage inflicted on any person by an applicant or license holder arising or alleged to have arisen from an action taken by the department under this subchapter.

(d) The immunities granted under Subsections (a), (b), and (c) do not apply to an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, or a peace officer if the act or failure to act was capricious or arbitrary.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

SUBCHAPTER I. INTERNAL OVERSIGHT

Sec. 411.241. OFFICE OF AUDIT AND REVIEW. The commission shall establish the office of audit and review. The office shall coordinate activities designed to promote effectiveness in departmental operations and to keep the commission and the legislature fully informed about deficiencies within the department. The office shall:

(1) inspect and audit departmental programs and operations for efficiency, uniformity, and compliance with established procedures and develop recommendations for improvement;

(2) coordinate and be responsible for promoting accountability, integrity, and efficiency in the department; and

(3) provide the commission with information relevant to its oversight of the department.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

Sec. 411.242. DIRECTOR OF AUDIT AND REVIEW. (a) The commission shall appoint the director of the office of audit and review. The director of audit and review serves until removed by the commission.

(b) The director of audit and review must satisfy the requirements to be the agency's internal auditor under Section 2102.006(b) and is considered to be the agency's internal auditor for purposes of Chapter 2102.

(c) The department shall provide the director of audit and review with access to any records, data, or other information necessary to fulfill the purposes of this section and Section 411.243.

(d) The director of audit and review shall, with the advice

and consent of the commission, determine which audits and inspections to perform and may publish the findings and recommendations of the office of audit and review.

(e) The director of audit and review shall:

(1) report to the commission regarding audits and inspections planned and the status and findings of those audits and inspections; and

(2) report to the director for administrative purposes and keep the director informed of the office's findings.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

Sec. 411.243. POWERS AND DUTIES. (a) The office of audit and review shall:

(1) independently and objectively inspect all divisions of the department to:

(A) ensure that operations are conducted efficiently, uniformly, and in compliance with established procedures; and

(B) make recommendations for improvements in operational performance;

(2) independently and objectively audit all divisions of the department to:

(A) promote economy, effectiveness, and efficiency within the department;

(B) prevent and detect fraud, waste, and abuse in department programs and operations; and

(C) make recommendations about the adequacy and effectiveness of the department's system of internal control policies and procedures;

(3) advise in the development and evaluation of the department's performance measures;

(4) review actions taken by the department to improve program performance and make recommendations for improvement;

(5) review and make recommendations to the commission and the legislature regarding rules, laws, and guidelines relating to department programs and operations;

(6) keep the commission, director, and legislature fully informed of problems in department programs and operations; and

(7) ensure effective coordination and cooperation among the state auditor's office, legislative oversight committees, and other governmental bodies while attempting to avoid duplication.

(b) Chapter 2102 applies to the office of audit and review.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

Sec. 411.244. INTERNAL AFFAIRS. (a) The director shall establish the office of internal affairs.

(b) The office of internal affairs has original departmental jurisdiction over all investigations occurring on department property or involving department employees. The office shall coordinate, but need not conduct, all investigations under this section.

(c) An investigation under this section may be initiated only by the director or the commission.

(d) The director shall appoint the head of the office of internal affairs. The head of the office of internal affairs serves until removed by the director.

(e) The head of the office of internal affairs shall report directly to the director regarding performance of and activities related to investigations, report to the director for administrative purposes, and provide the director with information regarding investigations as appropriate.

(f) The head of the office of internal affairs shall present at each regularly scheduled commission meeting and at other appropriate times a summary of information relating to investigations conducted under this section that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and recommendations to avoid future complaints.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION TEAM

Sec. 411.261. DEFINITIONS. In this subchapter:

(1) "Attorney representing the state" means a district attorney, criminal district attorney, or county attorney

performing the duties of a district attorney.

(2) "Unsolved crime" means a criminal offense:

(A) that is an unsolved homicide or an unsolved felony that is one offense arising out of the same criminal episode as other unsolved felonies; and

(B) the investigation of which requires a level of expertise that is not readily available to local law enforcement agencies.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.262. UNSOLVED CRIMES INVESTIGATION TEAM. (a) The unsolved crimes investigation team is an investigatory unit within the department.

(b) The team will be located at the headquarters of the Texas Rangers in Austin, Texas, and will be commanded by the chief of the Texas Rangers.

(c) The director may employ commissioned peace officers and noncommissioned employees to perform duties required of the team.

(d) To be eligible for employment under this section, a peace officer must have not less than four years of experience as a peace officer and:

(1) a degree from an accredited institution of higher education in law, accounting, or computer science; or

(2) two or more years of experience in the investigation of homicides or other major felonies.

(e) To be eligible for employment under this section, a noncommissioned employee must meet the experience, training, and educational qualifications set by the director as requirements for investigating or assisting in the investigation of an unsolved crime.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.263. ASSISTANCE ON REQUEST. On the request of an attorney representing the state and with the approval of the director, the unsolved crimes investigation team of the department may assist local law enforcement in the investigation of crime.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER K. DEPARTMENT OF PUBLIC SAFETY HISTORICAL MUSEUM AND RESEARCH CENTER

Sec. 411.281. DEFINITION. In this subchapter, "museum" means the nonprofit organization, known as the Department of Public Safety Historical Museum and Research Center, established by employees and former employees of the department for the purposes of creating and operating a museum and research facility to:

(1) inform the public about the personnel and history of the department; and

(2) educate young people about law enforcement procedures through an interactive facility.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 411.301 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.282. GENERAL PROVISIONS. The commission may:

(1) establish a support staff in the department to assist the museum;

(2) use department property to fulfill the purposes of this subchapter; and

(3) enter into a contract with the museum.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 411.302 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.283. PERSONNEL. (a) The director may appoint and assign duties to department personnel to serve as paid support staff for the museum.

(b) The support staff may consist of a historian, a librarian, and other personnel as needed to administer the museum.

(c) The department may spend funds to hire support staff.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 411.303 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.284. FUNDING. (a) The Department of Public Safety Historical Museum and Research Center account is created as a special account outside the state treasury to be held at the Department of Public Safety Credit Union and to be administered by the commission. The money in the account may be used only to administer this subchapter.

(b) The account is composed of gifts, grants, and donations collected by the department from any public or private source for

the purposes of this subchapter.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Government Code Sec. 411.304 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

SUBCHAPTER L. STATEWIDE AMERICA'S MISSING: BROADCAST EMERGENCY RESPONSE (AMBER) ALERT SYSTEM FOR ABDUCTED CHILDREN

Sec. 411.351. DEFINITIONS. In this subchapter:

(1) "Abducted child" means a child 17 years of age or younger whose whereabouts are unknown and whose disappearance poses a credible threat to the safety and health of the child, as determined by a local law enforcement agency.

(2) "Alert system" means the statewide America's Missing: Broadcast Emergency Response (AMBER) alert system for abducted children.

(3) "Local law enforcement agency" means a local law enforcement agency with jurisdiction over the investigation of the abduction of a child.

(4) "Serious bodily injury" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.352. STATEWIDE AMERICA'S MISSING: BROADCAST EMERGENCY RESPONSE (AMBER) ALERT SYSTEM FOR ABDUCTED CHILDREN. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement a statewide alert system to be activated on behalf of an abducted child.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.353. ADMINISTRATION. (a) The director is the statewide coordinator of the alert system.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert system. The rules and directives must include instructions on the procedures for activating and deactivating the alert system.

(c) The director shall prescribe forms for use by local law enforcement agencies in requesting activation of the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.354. DEPARTMENT TO RECRUIT PARTICIPANTS. (a) The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert system.

(b) The department may enter into agreements with participants in the alert system to provide necessary support for the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.355. ACTIVATION. (a) On the request of a local law enforcement agency, the department shall activate the alert system and notify appropriate participants in the alert system, as established by rule, if:

(1) the local law enforcement agency believes that a child has been abducted;

(2) the local law enforcement agency believes that the abducted child is in immediate danger of serious bodily injury or death;

(3) the local law enforcement agency confirms that an investigation has taken place that verifies the abduction and eliminates alternative explanations for the child's disappearance; and

(4) sufficient information is available to disseminate to the public that could assist in locating the child, a person suspected of abducting the child, or a vehicle suspected of being used in the abduction.

(b) The department may modify the criteria described by Subsection (a) as necessary for the proper implementation of the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.356. LOCAL LAW ENFORCEMENT AGENCIES. Before requesting activation of the alert system, a local law enforcement agency must verify that the criteria described by Section 411.355(a) have been satisfied. On verification of the criteria, the local law enforcement agency shall immediately contact the department to request activation and shall supply the necessary information on the forms prescribed by the director.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.357. STATE AGENCIES. (a) A state agency participating in the alert system shall:

(1) cooperate with the department and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the alert system has been activated.

(b) In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.358. TERMINATION. The director shall terminate any activation of the alert system with respect to a particular abducted child if:

(1) the child is recovered or the abduction is otherwise resolved; or

(2) the director determines that the alert system is no longer an effective tool for locating and recovering the child.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.