

## CHAPTER 419

## S.B. No. 358

An Act relating to the authority of the Texas Department of Health to investigate an employee or prospective employee of a nursing home or custodial care home and to the offense of unauthorized disclosure of criminal records; providing civil immunity for certain institutions, officers, and employees; providing a penalty; adding Section 18 to Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4442c, Vernon's Texas Civil Statutes).

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4442c, Vernon's Texas Civil Statutes), is amended by adding Section 18 to read as follows:

**Section 18. INVESTIGATION OF INSTITUTION EMPLOYEES.** (a) *The Licensing Agency is entitled to obtain criminal conviction records maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division to investigate an employee or a person applying for employment at a nursing home or custodial care home licensed or applying for a license under this Act.*

*“(b) At the request of an institution, the Licensing Agency shall investigate a person employed or applying for employment at a nursing home or custodial care home.*

*“(c) The Licensing Agency may not provide to the institution the criminal conviction records of a person being investigated unless the criminal records relate to:*

*“(1) any felony or misdemeanor classified as an offense against the person or the family;*

*“(2) any felony or misdemeanor classified as public indecency;*

*“(3) a felony violation of any statute intended to control the possession or distribution of a substance included in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes); or*

*“(4) any misdemeanor or felony violation of Section 31.03, Penal Code.*

*“(d) The Licensing Agency may require the institution to submit a complete set of fingerprints, social security number, or the complete name of the person being investigated.*

*“(e) The Licensing Agency may charge a reasonable fee to cover the costs of the investigation.*

*“(f) All criminal records received by the Licensing Agency are privileged information and are for the exclusive use of the Licensing Agency and the institution for which the Licensing Agency requested the information. Except on court order or with the written consent of the person being investigated, the records may not be released or otherwise disclosed to any other person or agency.*

*“(g) A person commits an offense if the person releases or discloses any information received under this section without the authorization prescribed by Subsection (f) of this section. An offense under this subsection is a felony of the second degree.*

*“(h) An institution as defined above or any of its officers or employees shall not be held liable civilly for failure to request an investigation.”*

**SECTION 2.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 7, 1985, by the following vote: Yeas 30, Nays 0; Senate concurred in House amendments on May 25, 1985, by a viva-voce vote; passed the House, with amendments, on May 17, 1985, by a non-record vote.

Approved: June 11, 1985

Effective: August 26, 1985