

CHAPTER 414

S.B. No. 48

An Act relating to the authority of the Texas Department of Human Resources to obtain criminal history information records from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency; to the custody, use, and disposition of the information; and to the offense of unauthorized disclosure of criminal history information records; providing a penalty; adding Section 22.006 to Chapter 22, Human Resources Code.

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

SECTION 1. Chapter 22, Human Resources Code, is amended by adding Section 22.006 to read as follows:

"Section 22.006. ACCESS TO CRIMINAL HISTORY INFORMATION RECORDS. (a) The department is entitled to obtain criminal history information records maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency to investigate:

"(1) owners and employees of, and applicants for employment at, a child-care facility licensed, registered, or certified or applying for a license, registration, or certification under Chapter 42 of this code;

"(2) residents of a registered family home, excluding children in the home's care and the parents of the children;

"(3) a person providing or applying to provide adoptive or foster care for children in the care of the department;

"(4) a department employee who is engaged in the direct delivery of protective services to children on the date the department implements this section;

"(5) a person applying for a position with the department, the duties of which include direct delivery of protective services to children; or

"(6) a volunteer or person applying as a volunteer with a local affiliate in this state of Big Brothers/Big Sisters of America.

"(b) The department may not use the authority granted under this section to harass an employee. The board shall adopt rules relating to the request and use of criminal records that are designed to prevent the harassment of an employee.

"(c) The department shall establish a uniform method of obtaining criminal history information records. The uniform method must require the department to submit to the Department of Public Safety or to another law enforcement agency either a complete set of fingerprints or the complete name of each person being investigated. If the department submits the fingerprints of a person being investigated and relevant information is not obtained at the state or local law enforcement agency level, the department may submit the fingerprints to the Federal Bureau of Investigation identification division.

"(d) A law enforcement agency may not provide to the department the criminal history information records of a person being investigated unless the criminal history information records relate to:

"(1) a felony or misdemeanor classified as an offense against the person or the family;

"(2) a felony or misdemeanor classified as public indecency; or

"(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).

"(e) The department may release information obtained under this section to:

"(1) the person being investigated; and

"(2) a child-care facility that employs or is considering employing a person covered by Subsection (a) of this section.

"(f) All criminal history information records received by the department are privileged information and are for the exclusive use of the department and those persons authorized under this section to receive the information. Except on court order or with the consent of the person being investigated, the records may not be released to any other person or agency. The department

may destroy the criminal history information records after the records are used for the purposes authorized by this section.

“(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 Class A misdemeanor.

“(h) The department shall adopt rules governing the custody and use of information obtained under this section.”

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.

Passed the Senate on March 4, 1985, by a viva-voce vote; Senate concurred in House amendment on May 23, 1985, by a viva-voce vote; passed the House, with amendment, on May 22, 1985, by a non-record vote.

Approved: June 11, 1985

Effective: August 26, 1985