

## CHAPTER 470

## H.B. No. 637

## AN ACT

relating to criminal background checks for certain providers of treatment to sex offenders.

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

SECTION 1. Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), is amended by adding Section 16 to read as follows:

*Sec. 16. CRIMINAL HISTORY BACKGROUND CHECKS. (a) The council may receive from a law enforcement agency information about the conviction or deferred adjudication of a person who has applied for registration or renewal of a registration to provide mental health or medical services for the rehabilitation of sex offenders.*

*(b) The council shall establish a uniform method of obtaining the adjudication information. The uniform method must require:*

*(1) a complete set of fingerprints, the complete name of the person being investigated, or other information necessary to conduct a criminal history background check to be submitted to the Department of Public Safety or to another law enforcement agency; and*

*(2) if fingerprints are submitted, the fingerprints must be submitted to the Federal Bureau of Investigation for further information if a relevant disqualifying record or other substantive information is not obtained from a state or local law enforcement agency.*

*(c) A law enforcement agency shall provide to the council information about the conviction or deferred adjudication of a person being investigated only if the information is relevant to the person's current or proposed registration and was collected in accordance with this section. The council is not entitled to adjudication information that is not relevant. Adjudication information is relevant only if it relates to a conviction or deferred adjudication for:*

*(1) a sexual offense;*

(2) murder, assault, battery, or any other offense involving personal injury or threat to another person; or

(3) a felony.

(d) The council may deny registration to an applicant if:

(1) the council determines that a previous criminal conviction or deferred adjudication indicates that the applicant is not qualified or suitable; or

(2) the applicant fails to provide the information required by Subsection (b) of this section.

(e) All adjudication information received by the council is privileged information and is for the exclusive use of the council. The information may be released or otherwise disclosed to any other person or agency only:

(1) on court order; or

(2) with the consent of the person being investigated.

(f) The council shall, by rule, establish a method to collect and destroy adjudication information relating to a person after the council makes a decision on the eligibility of the person for registration. The council must destroy the adjudication information not later than one year after the date of the council's decision on eligibility.

(g) A person commits an offense if the person releases or discloses in violation of this section adjudication information received by the council. An offense under this subsection is a Class A misdemeanor.

SECTION 2. Section 5(c), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(c) On expiration of a probationary period imposed under Subsection (a) of this section, if the court has not proceeded to adjudication of guilt, the court shall dismiss the proceedings against the defendant and discharge him. The court may dismiss the proceedings and discharge the defendant prior to the expiration of the term of probation if in its opinion the best interest of society and the defendant will be served. A dismissal and discharge under this section may not be deemed a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense, except that:

(1) upon conviction of a subsequent offense, the fact that the defendant had previously received probation shall be admissible before the court or jury to be considered on the issue of penalty; [and]

(2) if the defendant is an applicant for a license or is a licensee under Chapter 42, Human Resources Code, the Texas Department of Human Services may consider the fact that the defendant previously has received probation under this section in issuing, renewing, denying, or revoking a license under that chapter; and

(3) if the defendant is a person who has applied for registration to provide mental health or medical services for the rehabilitation of sex offenders, the Interagency Council on Sex Offender Treatment may consider the fact that the defendant has received probation under this section in issuing, renewing, denying, or revoking a license or registration issued by that council.

SECTION 3. This Act takes effect September 1, 1993, and applies only to an application for registration that is filed with the Interagency Council on Sex Offender Treatment on or after that date.

SECTION 4. 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 by the House on April 30, 1993, by a non-record vote; passed by the Senate on May 20, 1993, by a viva-voce vote.

Approved June 9, 1993.

Effective Sept. 1, 1993.