

## **BILL ANALYSIS**

S.B. 1540  
By: Perry  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that certain employees of health and human services agencies have significant access to sensitive information and systems, including personal, financial, and health information for individuals who are applying for or receiving benefits through the Health and Human Services Commission, as well as direct access to residents and clients of certain regulated facilities. There is concern that this access could potentially be misused to conduct illegal activities, and the parties assert that criminal background checks should be conducted on such employees or prospective employees to mitigate the risk for illegal activities in these situations. S.B. 1540 seeks to ensure that certain health and human services agencies have the authority to obtain criminal history record information for certain employees.

### **CRIMINAL JUSTICE IMPACT**

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

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1540 amends the Government Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to entitle the executive commissioner of the Health and Human Services Commission, or the executive commissioner's designee, to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for employment for a position in which the person, as an employee, would have access to sensitive personal or financial information, as determined by the executive commissioner, in the eligibility services division of the Health and Human Services Commission (HHSC) or HHSC's office of inspector general, or that relates to a person who is an employee of HHSC who has access to sensitive personal or financial information, as determined by the executive commissioner.

S.B. 1540 prohibits the release or disclosure of criminal history record information obtained by the executive commissioner or the executive commissioner's designee under the bill's provisions, except if the information is in a public record at the time the information is obtained, on court order, to a criminal justice agency on request, or with the consent of the person who is the subject of the criminal history record information. The bill establishes that HHSC is not prohibited from disclosing criminal history record information obtained under the bill's provisions in a criminal proceeding or in a hearing conducted by HHSC. The bill requires the executive commissioner to destroy all criminal history record information obtained under the bill's provisions as soon as practicable after the information is used for its authorized purpose.

S.B. 1540 includes among the persons for whom the Department of Aging and Disability Services (DADS) is entitled to obtain criminal history record information from DPS a person who is an applicant for employment with DADS for a position in which the person, as an employee, would have direct access to residents or clients of a facility regulated by DADS, as determined by the commissioner of aging and disability services, and a person who is an employee of DADS and who has direct access to residents or clients of a facility regulated by DADS, as determined by the commissioner of aging and disability services. The bill requires DADS to destroy the criminal history record information obtained by DADS for such individuals after the information is used for the authorized purpose.

S.B. 1540 authorizes the executive commissioner of HHSC to require a person for whom the executive commissioner is entitled to obtain criminal history record information from DPS under the bill's provisions to submit fingerprints in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation (FBI) for use in conducting a criminal history background check by obtaining criminal history record information from DPS, the FBI, or a local criminal justice agency. The bill limits the use of criminal history record information obtained by the executive commissioner from such an agency to the evaluation of the qualification or suitability for employment, including continued employment, of an applicable applicant or employee. The bill authorizes the executive commissioner or the executive commissioner's designee to release or disclose criminal history record information obtained from the FBI or a local criminal justice agency only to a governmental entity or as otherwise authorized by federal law, including federal regulations and executive orders.

S.B. 1540 amends the Human Resources Code to authorize DADS to obtain criminal history record information regarding a person for whom DADS is entitled to obtain criminal history record information from DPS in the manner provided by applicable Government Code provisions. The bill establishes that such criminal history record information is subject to applicable restrictions and requirements.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.