

- SUBJECT:** Criminal background checks of volunteers for children's programs
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Keel, Riddle, Ellis, Denny, Dunnam, Hodge, Pena, Talton  
0 nays  
1 absent — P. Moreno
- SENATE VOTE:** On final passage, March 25 — 30-0
- WITNESSES:** No public hearing
- BACKGROUND:** Under Government Code, ch. 411, criminal history record information maintained by the Department of Public Safety (DPS) is confidential and may not be disseminated, except that the department must grant access to these records for noncriminal justice agencies authorized by federal or state law or executive order. Among the nonprofit organizations authorized to gain access to criminal records are those that recruit and refer individual volunteers for other nonprofit groups.
- DIGEST:** SB 443 would allow nonprofit programs that provide athletic, civic, or cultural activities for children to obtain from DPS criminal history record information relating to a person who is a volunteer or volunteer applicant of the activity provider.
- An activity provider could use this criminal history record information only to determine a person's suitability for a position as a volunteer and could not keep or retain the information in any file. The information would have to be destroyed promptly after a determination of suitability was made. The information could not be released or disclosed to any person except in a criminal proceeding, on court order, or with the consent of the person who was the subject of the information.
- Employees, officers, or volunteers of the activity provider would not be liable in a civil action for damages resulting from a failure to comply with these

confidentiality requirements unless the act or omission was intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

SB 443 would help protect children and families who participate in sports programs and other activities by allowing nonprofit organizations that sponsor these activities to run detailed criminal background checks on coaches and other volunteers or prospective volunteers. The bill would help give parents and nonprofit organizations peace of mind in knowing that child molesters and other predators could not gain access to children by volunteering to serve as coaches, troop leaders, or in other volunteer capacities.

SB 443 would allow nonprofit organizations to obtain detailed data, including information about arrests or deferred adjudications, that is not available to the general public but could be important in evaluating the suitability of a volunteer or potential volunteer. The bill would track an existing statute that applies to programs that recruit volunteers and supply them to other programs. The procedures laid out in this statute balance the interests of all parties in outlining procedures for the handling of this information. Current law allows access to detailed criminal records in a variety of situations, and it would be appropriate for these nonprofit programs to have this access as well. DPS would have the authority to adopt rules to ensure that appropriate procedures were followed.

**OPPONENTS  
SAY:**

SB 443 would allow Little Leagues, YMCAs, Boy Scouts, and other nonprofit programs to conduct detailed criminal background checks on any current or prospective volunteer without requiring that the person be notified or allowed to sign a waiver to allow a background check. It would give broad authority to a wide range of groups to gain access to sensitive and private information that might not be relevant to the activity in which the person was involved. Nonprofit organizations should be allowed access to this information only when there is a good reason to believe that a criminal background check is warranted.

Nonprofit groups already can conduct basic criminal background checks that would indicate whether a volunteer or prospective volunteer should not be entrusted with children. These groups should not be given additional authority to conduct more detailed investigations.