

BILL ANALYSIS

Senate Research Center
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S.B. 549
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Department of Public Safety (DPS) is required by law to issue permits involving various industry practices, including permits relating to the production and sale of controlled substances and the inspection of motor vehicles. When DPS receives an application for a permit in connection with controlled substances or the inspection of motor vehicles, DPS generally performs a criminal history background check on the applicant. In performing the background check, DPS uses its database of criminal history record information (information), which is maintained by the crime records service in DPS. Section 411.083 (Dissemination of Criminal History Record Information), Government Code, gives DPS statutory authority to access the information database under these circumstances. The Federal Bureau of Investigation (FBI) also maintains a database of information. However, DPS does not have the necessary authority to access the Federal Bureau of Investigation's (FBI) database, which must be specifically conferred by statute. Access to the FBI's information would increase DPS's ability to effectively screen permit applicants.

As proposed, S.B. 549 amends the Government Code to authorize DPS to access FBI's information. The authority conferred by S.B. 549 applies only with respect to the specific circumstances provided for in the bill.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.0891, as follows:

Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) Authorizes the Texas Department of Public Safety (DPS), subject to Section 411.087 (Access to Criminal History Record Information Maintained by Federal Bureau of Investigation or Local Criminal Justice Agency), to obtain and use criminal history record information maintained by the Federal Bureau of Investigation or DPS that relates to a person who:

- (1) is an applicant for or holds a registration issued by DPS under Subchapter C (Regulation of Manufacture, Distribution, and Dispensation of Controlled Substances, Chemical Precursors, and Chemical Laboratory Apparatus), Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, that authorizes the person to manufacture, distribute, analyze, or conduct research with a controlled substance;
- (2) is an applicant for or holds a chemical precursor transfer permit issued by the director of DPS under Section 481.078 (Chemical Precursor Transfer Permit), Health and Safety Code;
- (3) is an applicant for or holds a chemical laboratory apparatus transfer permit issued by the director of DPS under Section 481.081 (Chemical Laboratory Apparatus Transfer Permit), Health and safety Code;

(4) is an applicant for certification by DPS as an inspection station or an inspector under Subchapter G (Certification of Inspection Station or Inspector), Chapter 548 (Compulsory Inspection of Vehicles), Transportation Code, holds an inspection station or inspector certificate issued under that subchapter, or is the owner of an inspection station operating under that chapter;

(5) is an applicant for approval or has been approved as a program sponsor by DPS under Chapter 662 (Motorcycle Operator Training and Safety), Transportation Code, is an applicant for certification by DPS as an instructor under that chapter, or holds an instructor certificate issued under that chapter.

(b) Authorizes DPS to release or disclose criminal history record information obtained or used by DPS for a purpose described by Subsection (a) to another person or agency only under certain circumstances.

(c) Prohibits this section from being construed to limit the authority of DPS to disseminate criminal history record information as provided by Section 411.083 (Dissemination of Criminal History Record Information).

SECTION 2. Effective date: upon passage or September 1, 2009.