

## **BILL ANALYSIS**

Senate Research Center

S.B. 2200  
By: Kolkhorst  
Health & Human Services  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Health and Human Services Commission (HHSC) uses an individual's background or criminal history record information (CHRI) based on a person's fingerprints to help with decisions related to hiring, volunteers, licensees, direct-care contracting, and other areas.

The Federal Bureau of Investigation (FBI) recently communicated to the Department of Public Safety of the State of Texas that state law must include explicit statutory authority to a specific state agency to allow that agency access to the CHRI. Without statutory changes to explicitly name HHSC as an agency authorized to obtain CHRI information for purposes of conducting background checks, HHSC will lose the authority to access this information. This would mean the agency might not be aware of criminal instances in someone's past that could jeopardize the health and safety of Texans served in our state-operated facilities, the facilities we regulate, and other vulnerable Texans who interact with the agency.

Solution:

S.B. 2200 would amend Chapter 411, Government Code, to include HHSC by name to ensure that HHSC will continue to be able to obtain accurate and comprehensive criminal history record information and be in compliance with the FBI.

As proposed, S.B. 2200 amends current law relating to conforming amendments to ensure that health and human services agencies may continue to obtain criminal history record information.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of the Department of Family and Protective Services in SECTION 6 (Section 411.114, Government Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 6 (Section 411.114, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 411.110, Government Code, as follows:

Sec. 411.110. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a) Entitles the Department of State Health Services (DSHS) or the Health and Human Services Commission (HHSC), as applicable, to obtain from the Department of Public Safety of the State of Texas (DPS) certain specified criminal history record information maintained by DPS relating to certain persons.

(b)-(f) Makes conforming changes to these subsections.

SECTION 2. Amends Section 411.1103, Government Code, as follows:

Sec. 411.1103. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a) Entitles DSHS or HHSC, as applicable, to obtain from DPS criminal history record information maintained by DPS that relates to a certain person, including a person who contracts or may contract to provide goods or services to DSHS or HHSC, as applicable, at a state hospital or an employee of or applicant for employment with that person.

(b)-(e) Makes conforming changes to these subsections.

SECTION 3. Amends Section 411.1105, Government Code, as follows:

Sec. 411.1105. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a)-(d) Makes conforming changes to these subsections.

SECTION 4. Amends Section 411.1106, Government Code, by adding Subsection (b-1), as follows:

(b-1) Entitles the executive commissioner of HHSC (executive commissioner), or the executive commissioner's designee, to obtain from DPS criminal history record information maintained by DPS with respect to a function transferred to HHSC under Subchapter A-1 (Consolidation of Health and Human Services System), Chapter 531.

SECTION 5. Amends Section 411.1131, Government Code, as follows:

Sec. 411.1131. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a) Entitles the Department of Assistive and Rehabilitative Services (DARS) or HHSC, as applicable, to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an applicant for a staff position at an outdoor training program for children who are deaf or hard of hearing conducted by a private entity through a contract with DARS or HHSC, as applicable, in accordance with Section 81.013 (Private Outdoor Training Programs for Children Who Are Deaf or Hard of Hearing), Human Resources Code.

(b)-(c) Makes conforming changes to these subsections.

SECTION 6. Amends Section 411.114, Government Code, as follows:

Sec. 411.114. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION. (a)(1) Makes no changes to this subdivision.

(2) Requires the Department of Family and Protective Services (DFPS) or HHSC, as applicable, to obtain from DPS criminal history record information maintained by DPS that relates to certain persons. Makes conforming and nonsubstantive changes.

(3)-(7) Makes conforming and nonsubstantive changes to these subdivisions.

(b)-(c) Makes conforming changes to these subsections.

(d) Makes no changes to this subsection.

SECTION 7. Amends Section 411.1142, Government Code, as follows:

Sec. 411.1142. New heading: ACCESS TO CRIMINAL HISTORY RECORD: INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION AND HEALTH AND HUMAN SERVICES COMMISSION. (a) Entitles the Interagency Council on Early Childhood Intervention or HHSC, as applicable, to obtain criminal history record information maintained by DPS, the Federal Bureau of Investigation identification division, or another law enforcement agency that relates to an employee or an applicant for permanent, temporary, or consultative employment or for volunteer positions whose employment or potential employment or volunteer position with the council or a local provider involves the delivery of early childhood intervention services or involves direct interactions with or the opportunity to interact and associate with children.

(b)-(d) Makes conforming changes to these subsections.

(e) Makes no changes to this subsection.

SECTION 8. Amends Sections 411.1144(a) and (d), Government Code, as follows:

(a) Deletes existing text including the Department of Aging and Disability Services (DADS) among the agencies that are entitled to obtain from DPS criminal history record information maintained by DPS that relates to certain specified persons.

(d) Deletes existing text including DADS among the agencies that are entitled to obtain certain other criminal history record information.

SECTION 9. Amends Section 411.115, Government Code, as follows:

Sec. 411.115. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND HUMAN SERVICES COMMISSION; LOCAL AUTHORITIES; COMMUNITY CENTERS. (a) Provides that "local mental health authority," "local mental retardation authority," and "community center" have the meanings assigned by Sections 531.002 (Definitions) and 531.0021 (Reference to State School, Superintendent, or Local Mental Retardation Authority), Health and Safety Code, as applicable, rather than Section 531.002, Health and Safety Code.

(b) Entitles DSHS or HHSC, as applicable, rather than the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center to obtain from DPS criminal history record information maintained by DPS that relates to certain persons. Makes conforming and nonsubstantive changes.

(d)-(e) Makes conforming changes to these subsections.

SECTION 10. Amends Section 411.117, Government Code, as follows:

Sec. 411.117. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND TEXAS WORKFORCE COMMISSION. Entitles HHSC or the Texas Workforce Commission (TWC), as applicable, rather than DARS, to obtain from DPS criminal history record information maintained by DPS that relates to certain persons. Makes conforming changes.

SECTION 11. Amends Section 411.122(d), Government Code, to include HHSC among the state agencies that are subject to this section (Access to Criminal History Record Information: Licensing or Regulatory Agency).

SECTION 12. Amends the heading to Section 411.1386, Government Code, to read as follows:

Sec. 411.1386. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION:  
COURT CLERK; HEALTH AND HUMAN SERVICES COMMISSION;  
GUARDIANSHIPS.

SECTION 13. Amends Sections 411.1386(a-1), (a-2), (a-4), (e), and (i), Government Code, as follows:

(a-1) Requires HHSC, rather than DADS, to obtain from DPS criminal history record information maintained by DPS that relates to each individual who is or will be providing guardianship services to a ward of or referred by HHSC, rather than DADS, including certain persons. Makes nonsubstantive changes.

(a-2) Makes a conforming change to this subsection.

(a-4) Makes a conforming change to this subsection.

(e) Makes a conforming change to this subsection.

(i) Makes conforming change to this subsection.

SECTION 14. Amends Section 411.13861, Government Code, as follows:

Sec. 411.13861. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) Entitles HHSC, rather than DADS, to obtain from DPS criminal history record information maintained by DPS that relates to certain persons. Makes conforming changes.

(b)-(d) Makes conforming changes to these subsections.

(e) Makes no changes to this subdivision.

(f) Makes a conforming change to this subsection.

SECTION 15. Effective date: upon passage or September 1, 2019.