

BILL ANALYSIS

C.S.H.B. 2700
By: Thompson, Senfronia
Government Transparency & Operation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is growing concern that open access to criminal records through government repositories and commercial vendors, combined with the rise of the Internet and the emergence of electronic databases, has enabled tens of millions of criminal background checks to be performed annually for non-criminal justice purposes. Given the expansion of this access, there are particular concerns about the number of adult arrests that do not result in a criminal conviction but do not have a reported final disposition. This could result in individuals across the state being denied employment and housing on the basis of inaccurate records provided to vendors and even published online. C.S.H.B. 2700 seeks to address this issue.

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

C.S.H.B. 2700 amends the Government Code to require a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency, other than the Department of Public Safety (DPS), that receives from any person or entity a bulk criminal history record information request for production of all or a significant portion of the criminal history record information maintained by the clerk, court, or agency concerning Class A or Class B or felony offenses for which a final judgment has been rendered to deny the request and provide the requestor with instructions for submitting a bulk criminal history record information request to DPS. The bill requires a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency that grants such a bulk criminal history record information request that is submitted by any person or entity and concerns Class C offenses for which final judgment has been rendered or Class C offenses that are pending final disposition to maintain a record of the name and contact information of the requestor and the most recent date criminal history record information was provided to the requestor and to publish the record on the clerk's or agency's website or, if the clerk or agency does not maintain a website, to prominently display the record in a public area of the clerk's or agency's place of business.

C.S.H.B. 2700 provides an exception to the requirement for a district clerk, county clerk, clerk of a justice or municipal court, and criminal justice agency to deny certain bulk criminal history record information requests and the requirement for such clerks and criminal justice agencies to maintain specified records concerning certain other criminal history record information requests by authorizing a district clerk, county clerk, clerk of a justice or municipal court, or criminal

justice agency to grant a bulk criminal history record information request if the court or agency is in a jurisdiction that has adopted rules to ensure the provision of notice of any updates to a particular criminal history record to each person who received that criminal history record in response to the submission of a bulk criminal history record information request. The bill requires a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency authorized to release bulk criminal history record information in a jurisdiction that has adopted those rules to update applicable records not later than the 30th day after the date the clerk or agency discovers a change to a person's criminal history record information that was included in a response to the submission of a bulk criminal history record information request. The bill specifies that its provisions do not restrict public access to criminal history record information, other than through a bulk criminal history record information request, or limit the general discretion or authority of any district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency.

C.S.H.B. 2700 defines "bulk criminal history record information request" to mean a request submitted to a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency for production, in any format, of all or a significant portion of the criminal history record information maintained by that clerk, court, or agency, excluding a request for all or a significant portion of the criminal history record information for a specifically named person. The bill defines "criminal history record information" to mean information about a person that is collected or maintained by a district clerk, county clerk, clerk of a justice or municipal court, or a criminal justice agency and that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. This term does not include identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; traffic offense information maintained by a clerk of a municipal or justice court; or driving record information maintained by DPS.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2700 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.1426 to read as follows:

Sec. 552.1426. DISSEMINATION OF BULK CRIMINAL HISTORY RECORD INFORMATION. (a) In this section:

(1) "Bulk criminal history record information request" means a request submitted to a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency for production, in any format, of all or a significant portion of the criminal history record information maintained by that clerk, court, or agency.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.1426 to read as follows:

Sec. 552.1426. DISSEMINATION OF BULK CRIMINAL HISTORY RECORD INFORMATION. (a) In this section:

(1) "Bulk criminal history record information request" means a request submitted to a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency for production, in any format, of all or a significant portion of the criminal history record information maintained by that clerk, court, or agency. The term does not include a request for all

(2) "Criminal history record information" means information about a person that is collected or maintained by a district clerk, county clerk, clerk of a justice or municipal court, or a criminal justice agency and that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system;

(B) traffic offense information maintained by a clerk of a municipal or justice court; or

(C) driving record information maintained by the Department of Public Safety under Subchapter C, Chapter 521, Transportation Code.

(3) "Criminal justice agency" has the meaning assigned by Section 411.082.

(b) A district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency, other than the Department of Public Safety, that receives from any person or entity a bulk criminal history record information request concerning Class A or Class B or felony offenses for which a final judgment has been rendered shall deny the request and provide the requestor with instructions for submitting a bulk criminal history record information request to the Department of Public Safety.

(c) A district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency that grants a bulk criminal history record information request submitted by any person or entity and that concerns Class C offenses for which final judgment has been rendered or offenses that are pending final disposition shall:

(1) maintain a record of the name and contact information of the requestor and the most recent date criminal history record information was provided to the requestor; and

(2) publish the record on the clerk's or agency's Internet website or, if the clerk or

or a significant portion of the criminal history record information for a specifically named person.

(2) "Criminal history record information" means information about a person that is collected or maintained by a district clerk, county clerk, clerk of a justice or municipal court, or a criminal justice agency and that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system;

(B) traffic offense information maintained by a clerk of a municipal or justice court; or

(C) driving record information maintained by the Department of Public Safety under Subchapter C, Chapter 521, Transportation Code.

(3) "Criminal justice agency" has the meaning assigned by Section 411.082.

(b) Except as provided by Subsection (d), a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency, other than the Department of Public Safety, that receives from any person or entity a bulk criminal history record information request concerning Class A or Class B or felony offenses for which a final judgment has been rendered shall deny the request and provide the requestor with instructions for submitting a bulk criminal history record information request to the Department of Public Safety.

(c) Except as provided by Subsection (d), a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency that grants a bulk criminal history record information request that is submitted by any person or entity and concerns Class C offenses for which final judgment has been rendered or Class C offenses that are pending final disposition shall:

(1) maintain a record of the name and contact information of the requestor and the most recent date criminal history record information was provided to the requestor; and

(2) publish the record on the clerk's or agency's Internet website or, if the clerk or

agency does not maintain an Internet website, prominently display the record in a public area of the clerk's or agency's place of business.

agency does not maintain an Internet website, prominently display the record in a public area of the clerk's or agency's place of business.

(d) Notwithstanding Subsection (b), a district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency may grant a bulk criminal history record information request under this subsection if the court or agency is in a jurisdiction that has adopted rules to ensure the provision of notice of any updates to a particular criminal history record to each person who received that criminal history record in response to the submission of a bulk criminal history record information request. Subsection (c) does not apply to a bulk criminal history record information request concerning Class C offenses described by that subsection that is granted in accordance with this subsection. A district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency authorized to release bulk criminal history record information under this subsection shall update applicable records not later than the 30th day after the date the clerk or agency discovers a change to a person's criminal history record information that was included in a response to the submission of a bulk criminal history record information request.

(d) This section does not restrict public access to criminal history record information, other than through a bulk criminal history record information request, or limit the general discretion or authority of any district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency.

(e) This section does not restrict public access to criminal history record information, other than through a bulk criminal history record information request, or limit the general discretion or authority of any district clerk, county clerk, clerk of a justice or municipal court, or criminal justice agency.

SECTION 2. Section 411.087(a), Government Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.