

BILL ANALYSIS

C.S.H.B. 2828
By: Phillips
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many local governmental entities, such as a county office of emergency management, rely heavily on volunteer and contract support. Interested parties note, however, that the lack of clarity in the law as to whether a county or municipality may legally perform background checks on these volunteers and contract employees has raised concern about these entities' ability to filter out certain persons with a criminal history. C.S.H.B. 2828 seeks to address this concern.

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. 2828 amends the Government Code to add to the individuals about whom a municipality or county, as applicable, is entitled to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS an employee of the municipality or county, an applicant for employment by or an employee of a business or person that contracts with the municipality or county, a volunteer with the municipality or county, or an applicant for a volunteer position with the municipality or county.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2828 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. Sec. 411.129, Government Code, is amended as follows: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY MUNICIPALITY.

(a) Except as provided by Subsection (b), a municipality is entitled to obtain from the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 411.129, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (b), a municipality is entitled to obtain from the

department criminal history record information maintained by the department that relates to a person who is: ~~an applicant for employment by the municipality.~~

- (1) an applicant for employment with the municipality;
- (2) an employee of the municipality;
- (3) an applicant for employment with or an employee of a business or person that contracts with the municipality;
- (4) a volunteer with the municipality; or
- (5) a volunteer applicant to the municipality.

Not later than September 1, 2000, the department shall make available through electronic means the information available to municipalities under this section.

SECTION 2. Sec. 411.1295, Government Code, is amended as follows:
Sec. 411.1295. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY COUNTY.

(a) Except as provided by Subsection (b), a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is: ~~an applicant for employment by the county.~~

- (1) an applicant for employment with the county;
- (2) an employee of the county;
- (3) an applicant for employment with or an employee of a business or person that contracts with the county;
- (4) a volunteer with the county; or
- (5) a volunteer applicant to the county.

SECTION 3. ~~This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.~~

department criminal history record information maintained by the department that relates to a person who is:

- (1) an applicant for employment by the municipality;
- (2) an employee of the municipality;
- (3) an applicant for employment by or an employee of a business or person that contracts with the municipality;
- (4) a volunteer with the municipality; or
- (5) an applicant for a volunteer position with the municipality.

~~(a-1) The [Not later than September 1, 2000, the]~~ department shall make available through electronic means the information available to municipalities under this section.

SECTION 2. Section 411.1295(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

- (1) an applicant for employment by the county;
- (2) an employee of the county;
- (3) an applicant for employment by or an employee of a business or person that contracts with the county;
- (4) a volunteer with the county; or
- (5) an applicant for a volunteer position with the county.

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