

BILL ANALYSIS

C.S.H.B. 577
By: Workman
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties question whether political subdivision ordinances or regulations regarding whether a private employer may obtain or consider an employment applicant's or employee's criminal history record information or criminal history provided by an applicant or employee are proper exercises of a political subdivision's power and contend that such ordinances create an inconsistent legal landscape for employers. C.S.H.B. 577 seeks to address these concerns by prohibiting, with certain exceptions, a political subdivision from adopting or enforcing any ordinance or other local regulation regulating a private employer's use of such information in making employment decisions.

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. 577 amends the Labor Code to prohibit a political subdivision of the state from adopting or enforcing any ordinance or other local regulation that prohibits, limits, delays, or otherwise regulates a private employer's ability to inquire about, request, consider, or take employment action based on the criminal history record information of an applicant or employee or criminal history provided by an applicant or employee. The bill's provisions expressly do not prevent a political subdivision from adopting or enforcing an ordinance or other local regulation relating to the access to or consideration of the criminal history record information of an individual or criminal history provided by an individual entering into a contract or other agreement with the political subdivision as it relates to hiring within the scope of performance of duties under that contract or agreement or receiving a grant from the political subdivision as it relates to hiring within the scope of performance of duties under that grant.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 577 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. Title 3, Labor Code, is amended by adding Chapter 106 to read as follows:

CHAPTER 106. CRIMINAL HISTORY RECORD INFORMATION OF EMPLOYMENT APPLICANT OR EMPLOYEE

Sec. 106.001. DEFINITIONS. In this chapter:

- (1) "Applicant" means a person who has made an oral or written application with a private employer, or has sent a resume or other correspondence to a private employer, indicating an interest in employment.
- (2) "Criminal history record information" has the meaning assigned by Section 411.082, Government Code.

Sec. 106.002. CERTAIN LOCAL REGULATION OF PRIVATE EMPLOYERS PROHIBITED. A political subdivision of this state may not adopt or enforce any ordinance or other local regulation that prohibits, limits, or otherwise regulates a private employer's ability to request, consider, or take employment action based on the criminal history record information of an applicant or employee.

Sec. 106.003. NONAPPLICABILITY. This chapter does not prevent a political subdivision of this state from adopting or enforcing an ordinance or other local regulation relating to the access to or consideration of the criminal history record information of an individual:

- (1) entering into a contract or other agreement with the political subdivision;
- (2) receiving a grant from the political subdivision;
- (3) seeking a license, permit, or other authorization to conduct business from the political subdivision; or
- (4) conducting business with or under the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Title 3, Labor Code, is amended by adding Chapter 106 to read as follows:

CHAPTER 106. CRIMINAL HISTORY RECORD INFORMATION OF EMPLOYMENT APPLICANT OR EMPLOYEE

Sec. 106.001. DEFINITIONS. In this chapter:

- (1) "Applicant" means a person who has made an oral or written application with a private employer, or has sent a resume or other correspondence to a private employer, indicating an interest in employment.
- (2) "Criminal history record information" means information collected by a criminal justice agency about a person's arrests, detentions, and criminal charges and the dispositions of those criminal charges.

Sec. 106.002. CERTAIN LOCAL REGULATION OF PRIVATE EMPLOYERS PROHIBITED. A political subdivision of this state may not adopt or enforce any ordinance or other local regulation that prohibits, limits, delays, or otherwise regulates a private employer's ability to inquire about, request, consider, or take employment action based on the criminal history record information of an applicant or employee or criminal history provided by an applicant or employee.

Sec. 106.003. NONAPPLICABILITY. This chapter does not prevent a political subdivision of this state from adopting or enforcing an ordinance or other local regulation relating to the access to or consideration of the criminal history record information of an individual or criminal history provided by an individual:

- (1) entering into a contract or other agreement with the political subdivision as it relates to hiring within the scope of performance of duties under that contract or agreement; or
- (2) receiving a grant from the political subdivision as it relates to hiring within the scope of performance of duties under that grant.

regulatory authority of the political subdivision.

SECTION 2. 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, 2017.

SECTION 2. Same as introduced version.