

SUBJECT: Verifying certain residential housing employees' criminal backgrounds

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 7 ayes — Oakley, Bailey, Allen, Carter, Edwards, Krusee, Luna
0 nays
4 absent — Price, Rodriguez, A. Smith, Yost

SENATE VOTE: On final passage, May 6 — voice vote

WITNESSES: None

BACKGROUND: Human Resources Code Chapter 135 provides for pre-employment criminal history checks of workers in federally subsidized housing who would have access to the residence of an occupant who is elderly or disabled. Employers are entitled to criminal history information relating to drug-related felonies and felonies or misdemeanors involving violence, public indecency and property. Criminal history information may only be used by the employer. Illegal disclosure is a second-degree felony, punishable by up to 20 years in prison and a \$10,000 fine.

DIGEST: SB 536 would amend Human Resources Code Chapter 135 to allow for criminal history checks of applicants for jobs in any residential housing project if the employee would have access to a dwelling in the project. A residential project would be defined as a house, condominium, apartment building, duplex, hotel, motel, inn, bed and breakfast, or similar facility. Employers would not be required to obtain criminal history information.

At any time before or after an offer of employment was made, employers could ask such applicants to disclose their criminal history information. With the applicant's permission, the employer could verify the applicant's criminal history with the Department of Public Safety (DPS).

Before providing criminal history information, DPS could require the employer to submit the applicant's name, date of birth, social security number, sex, race, current street address and current driver's license

number. DPS could charge a fee to cover all costs and adopt rules requiring the employer's complete name, address and federal employer identification number as well as an affidavit from the employer's representative that the subject of the background check had been offered a position of employment in a residential dwelling project that would require access to dwellings. DPS could only release criminal history information relating to a felony or misdemeanor offense involving violence, public indecency or property.

If an applicant was found to have submitted false information relating to his or her criminal history, an employer could terminate the employment of the individual.

All criminal history information would be confidential and could only be used by the employer. Illegal disclosure would be a Class A misdemeanor, maximum penalty of one year in jail and a \$3,000 fine.

The bill would take effect September 1, 1993.

SUPPORTERS
SAY:

Employers now may obtain criminal history information on certain employees at *subsidized* housing complexes. Yet, there is no similar provision for other residential employees with similar responsibilities. On-site maintenance personnel, cleaning people, managers and leasing agents must have access to people's rooms and residences. Any employee with the key to a hotel room or apartment represents a potential threat. To better protect tenants and guests, employers need to be able to verify applicants' backgrounds before placing them in positions of trust.

The potential for misusing criminal history information would be greatly diminished under this bill, since an employer could not acquire criminal information from DPS without the applicant's authorization.

OPPONENTS
SAY:

Allowing criminal history searches for every person with access to an apartment, condominium, duplex, hotel, motel, inn, or bed and breakfast in the state would create a logistical nightmare for DPS. Even if the department could service every request for information, there is no way DPS could ensure that individual criminal records would not be misused short of a criminal prosecution.