

SUBJECT: Texas Commission on Alcohol and Drug Abuse access to criminal histories

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 5 ayes — Oakley, Allen, Carter, Driver, Luna

2 nays — Bailey, Madden

2 present, not voting — Edwards, McCoulskey

WITNESSES: For — None

Against — None

On — J.C. Swain

BACKGROUND: Under sec. 411.122 of the Government Code a state agency or political subdivision that licenses or regulates members of a particular occupation or trade can obtain from the Texas Department of Public Safety (DPS) criminal history record information maintained by the department. Based on this authority, the Texas Commission on Alcohol and Drug Abuse (TCADA) does now receive this type of information regarding applicants for a chemical dependency counselor's license and holders of such a license.

TCADA is also authorized under sec. 411.087 of the Government Code to obtain criminal history record information from the Federal Bureau of Investigation (FBI) and from any other criminal justice agency in this state. To access information from the FBI, a state agency must provide the individual's fingerprints and pay a fee of approximately \$24.

DIGEST: CSHB 1726 would entitle TCADA to criminal history record information from the DPS relating to:

- an applicant for a chemical dependency counselor's license,
- a holder of such a license, or

- the chief executive officer (CEO), principal subordinate of the CEO, or member of the board of directors of a business entity licensed or funded by TCADA to provide treatment for substance abuse.

In addition to the criminal history TCADA is already authorized to obtain from the FBI, TCADA would be entitled to obtain from the FBI the wanted-persons status of an applicant, holder or person designated above as associated with a business licensed or funded by TCADA.

TCADA could consider the criminal history information obtained in determining an individual's licensure status. TCADA could charge a fee to the person on whom criminal history information was sought as would be necessary to cover costs of implementing this section.

The bill would take effect immediately if approved by two-thirds of the membership of each house.

**SUPPORTERS  
SAY:**

Although TCADA already obtains criminal history information on applicants for licensure and holders of licenses, TCADA contracts out for sensitive counseling services. TCADA pays high dollar to these treatment providers and needs to be assured that neither the CEO nor any board of directors member has an inappropriate background for handling these sensitive and costly services. CSHB 1726 would let TCADA better protect the resources and the citizens of the state from unscrupulous individuals.

**OPPONENTS  
SAY:**

CSHB 1726 would allow the inappropriate invasion into the personal life of a CEO or director of a private treatment provider contracted by TCADA. These people do not need to be licensed to perform the required services, and thus a thorough check of their background seems overreaching. Many directors serve on the board as a favor to the provider and this type of government intrusion is no way to thank them for their dedication. In addition, it seems particularly egregious to allow TCADA to charge them a fee for getting investigated.

**NOTES:**

The original bill would have allowed the governing body of a private treatment provider to obtain criminal history record information on the licensed counselors they employ or that have applied to them for employment.