

BILL ANALYSIS

Senate Research Center
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S.B. 53
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Health & Human Services
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DIGEST AND PURPOSE

Currently, the Department of Protective and Regulatory Services is authorized to obtain criminal background histories from the Department of Public Safety regarding certain people. As proposed, S.B. 53 expands the list of people about whom criminal background information can be obtained, to include any applicant or employee and any volunteer or applicant volunteer with the agency, persons seeking employment through a contract with the estate of a ward, a friend or relative seeking unsupervised visitation with a ward, any person living in an adoptive or foster home where a child being protected by the state will live, and any person living in the home of an alleged victim.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.114(a), (1)-(4) and (7), Government Code, as follows:

- (1) Defines “elderly person,” “person with a disability,” and “ward.”
- (2) Requires the Department of Protective and Regulatory Services to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who meets certain criteria, including:
 - (A) an applicant for a license, registration, certification, or listing under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-care Services), Human Resources Code;
 - (C) each person 14 years of age or older who will be regularly working or staying in a facility or family home while children are being provided care, other than a child in the home’s care or a parent of the child;
 - (D) an applicant for a position with the Department of Protective and Regulatory Services, the duties of which include delivery, rather than direct delivery, of protective services to children, elderly persons, or persons with a disability;
 - (F) a registered volunteer with the Department of Protective and Regulatory Services;
 - (G) a person providing or applying to provide in-home, adoptive, or foster care for children in the care of the Department of Protective and Regulatory Services and other persons, rather than adults living with that person, living in the residence in which the child will reside;
 - (I) a person who is the subject of a report the Department of Protective and Regulatory

Services, rather than the department, receives alleging that the person has abused or neglected a child or abused, neglected, or exploited an elderly person or a person with a disability, provided that report has proven to have merit, and other persons living with that person in the residence in which the alleged victim resides.

Deletes language relating to a resident of a registered family home, an applicant volunteer, and a relative providing in-home care for a child.

(3) Entitles the Department of Protective and Regulatory Services to obtain from DPS criminal history record information maintained by DPS that relates to a person who meets certain criteria, including:

(G) a child who is related to the caretaker, as determined under Section 42.002 (Definitions), Human Resources Code, and resides in or is present in a child-care facility, other than a child described by Subdivision (2)(C);

(H) an applicant for a position with the Department of Protective and Regulatory Services, other than a position described by Subdivision (2)(D), regardless of the duties of the position;

(I) a volunteer or applicant volunteer with the Department of Protective and Regulatory Services, other than a registered volunteer, regardless of the duties to be performed;

(J) a person providing or applying to provide in-home, adoptive, or foster care for children to the extent necessary to comply with Chapter 162B (Interstate Compact on the Placement of Children), Family Code;

(K) a Department of Protective and Regulatory Services employee, other than an employee described by subdivision (2)(H), regardless of the duties of the employee's position;

(L) a relative of a child in the care of the Department of Protective and Regulatory Services, to the extent necessary to comply with Section 162.007 (Contents of Health, Social, Educational, and Genetic History Report), Family Code;

(M) an employee under, or an applicant for employment under, a contract with the estate of a ward of the Department of Protective and Regulatory Services, if the duties of the position include delivery of services to the ward; or

(N) a friend or relative of a ward of the Department of Protective and Regulatory Services who seeks unsupervised visits with the ward away from the ward's placement.

(4) Requires the Department of Protective and Regulatory Services, subject to Section 411.087, to obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to a person described by subdivision (2). Makes conforming changes.

(7) Provides that the Department of Protective and Regulatory Services is not prohibited from releasing criminal history record information obtained under this subsection to certain persons, including:

(B) a family home listed in Subdivision (2) that employs or is considering employing the person who is the subject of the criminal history record information;

(C) a person or business entity described by Subdivision (2)(E) or (3), rather than

Subsection (a)(2)(E), who uses or intends to use the services of the volunteer or employs or is considering employing the person who is the subject of the criminal history record information; or

(D) an adult residing with a child, elderly person, or person with a disability and the person who is the subject of the criminal history record information, if a certain determination is made. Makes conforming changes.

SECTION 2. Makes a conforming change.

SECTION 3. Effective date: September 1, 2001.