

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 53
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Health & Human Services
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the Department of Protective and Regulatory Services (DPRS) is authorized to obtain criminal background histories from the Department of Public Safety (DPS) regarding certain people. As proposed, C.S.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, any person living in the home of an alleged victim, and other persons.

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 “child,” “child-care facility,” “child-placing agency,” “family home,” “elderly person,” “maternity home,” “person with a disability,” and “ward.”
- (2) Requires DPRS to obtain from 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, or Chapter 249 (Maternity Homes), Health and Safety Code;
 - (B) an operator of a child-care facility, child-placing agency, family home, or maternity home licensed, registered certified, or listed under Chapter 42, Human Resources Code, or Chapter 249, Health and Safety Code.
 - (C) each person 14 years of age or older who will be regularly or frequently working or staying in a child-care facility, family home, or maternity home while children are being provided care, other than a child in the care of the home or facility;
 - (D) an applicant selected for a position with DPRS, the duties of which include direct delivery of protective services to children, elderly persons, or persons with a disability;
 - (F) a registered volunteer with DPRS;
 - (G) a person providing or applying to provide in-home, adoptive, or foster care for

children in the care of DPRS 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 DPRS, rather than the department, receives, alleging that the person has abused, neglected, or exploited a child, an elderly person, or a person with a disability, provided that the report alleges the person has engaged in certain abusive conduct, and that the person who is the subject of the report is not also the victim of the alleged conduct.

Deletes language relating to a resident of a registered family home, a parent of the child in the care of a home, an applicant volunteer, a relative providing in-home care for a child, and a report being proven to have merit. Deletes text regarding an operator of a child-care facility or child-placing agency who is seeking to register with DPRS.

(3) Entitles DPRS 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, family home, or maternity home, other than a child described by Subdivision (2)(C), or any other person who has unsupervised access to a child in the care of a child-care facility, family home, or maternity home;

(H) an applicant for a position with DPRS, other than a position described by Subdivision (2)(D), regardless of the duties of the position;

(I) a volunteer or applicant volunteer with DPRS, 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 DPRS 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 DPRS, to the extent necessary to comply with Section 162.007 (Contents of Health, Social, Educational, and Genetic History Report), Family Code;

(M) a person, other than the subject of a report described in Subdivision (2)(I), living in the residence in which the alleged victim of the report resides;

(N) a contractor or an employee of a contractor who delivers services to a ward of DPRS under a contract with the estate of the ward; or

(O) a person who seeks unsupervised visits with a ward of DPRS, including a relative of the ward.

(4) Entitles DPRS, 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 DPRS is not prohibited from releasing criminal history record information obtained under this subsection to certain persons, including:

(B) a child-placing agency, family home, or maternity 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.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Differs from original by: adding definitions; including operators with owners and employees of certain agencies concerned with children, elderly or disabled persons; including child-placing agencies and maternity homes as agencies relevant to this Act; including in the list of people about whom DPRS is required to obtain background information a person working in a child-care agency frequently, a selected applicant, rather than any applicant, for a position with DPRS directly delivering protective services, a person who is the subject of allegations of statutory, abuse, neglect, or exploitation of a child, an elderly person, or a person with a disability but who is not also the victim of the alleged conduct; adding certain individuals to the lists of persons on whom DPRS is entitled to obtain criminal histories maintained by DPS and the Federal Bureau of Investigation; and restructuring some sections to streamline the code and to make conforming changes.

SECTION 2. No changes.

SECTION 3. No changes.