

BILL ANALYSIS

Senate Research Center
78R4426 KCR-D

C.S.S.B. 443
By: Wentworth
Criminal Justice
3/5/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, under Section 411.126 (Access to Criminal History Record Information: Volunteer Centers) of the Government Code, volunteer centers are entitled to obtain criminal history record information. However, the manner in which volunteer centers is defined precludes certain nonprofit programs from obtaining certain criminal history records from the Department of Public Safety. These programs include the YMCA and youth soccer leagues. C.S.S.B. 443 allows nonprofit organizations which provide activities for children to perform background checks on a person who is a volunteer or is applying to be a volunteer of the activity provider.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 1 (Section 411.1401, Government Code).

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 411F, Government Code, by adding Section 411.1401, as follows:

Sec. 411.1401. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PROGRAMS PROVIDING ACTIVITIES FOR CHILDREN. (a) Defines "activity provider."

- (b) Provides that an activity provider is entitled to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information that relates to a person who is a volunteer or a volunteer applicant of the activity provider.
- (c) Authorizes DPS to establish rules governing the administration of this section.
- (d) Authorizes an activity provider to use criminal history record information only to determine the suitability of a person for a position as a volunteer. Prohibits criminal history record from being kept or retained in any file. Requires criminal history record information to be destroyed promptly after a determination of suitability is made.
- (e) Prohibits release of criminal history record information, except in certain situations.
- (f) Provides that an employee, officer, or volunteer of an activity provider is not liable in a civil action for damages resulting from a failure to comply unless the act or omission of the employee, officer, or volunteer was intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

SECTION 2. Effective date: upon passage or September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 443 by deleting the following text in proposed Section 411.1401(f): “ if the employee, officer, or volunteer makes a good faith effort to comply,” and substituting with “unless the act or omission of the employee, officer, or volunteer was intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.”