

## **BILL ANALYSIS**

Senate Research Center  
83R1816 CJC-D

H.B. 729  
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Criminal Justice  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law entitles a public or nonprofit hospital or a hospital district to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS relating to hospital or district employees and volunteers and applicants for employment or a volunteer position, and certain applicants and employees of contracting entities. Similarly, the law entitles certain health facilities, regulatory agencies, and private agencies, to obtain such criminal history record information from DPS relating to employees and applicants for employment. However, interested parties observe that these facilities and agencies are not specifically entitled to obtain criminal background checks on contractors and volunteers, even if the contractors or volunteers have access to patients.

In the interest of furthering the safety and privacy of patients and residents of these entities, H.B. 729 seeks to ensure that certain entities that need such information are able to obtain criminal history record information from DPS regarding individuals who provide services at health care facilities.

H.B. 729 adds students doing their clinical training at a hospital to the list. For nursing homes, hospice programs, and long-term care facilities, the bill adds contract employees and volunteers to the list.

H.B. 729 amends current law relating to access to criminal history record information by certain hospitals and other facilities.

### **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 Sections 411.136(b) and (d), Government Code, as follows:

(b) Entitles a public or nonprofit hospital or hospital district to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to certain persons, including a person who is a student enrolled in an educational program or course of study who is at the hospital or a hospital owned or operated by the district for educational purposes. Makes nonsubstantive changes.

(d) Authorizes the public or nonprofit hospital or hospital district to dismiss a person or deny a person employment or a volunteer position or refuse to allow a person to work in a hospital or district facility if the person fails or refuses to provide information described by Subsection (c) (relating to requiring a hospital or hospital district to adopt a uniform method to obtain criminal history information from certain persons); or if the person's criminal history record information reveals a conviction or deferred adjudication that renders the person unqualified or unsuitable for employment or a volunteer position or to be present at a hospital for educational purposes.

SECTION 2. Amends Section 411.1387, Government Code, by amending Subsections (b), (c), and (e) and adding Subsection (b-1), as follows:

(b) Entitles a regulatory agency, rather than a facility, regulatory agency, or a private agency on behalf of a facility, to obtain from DPS criminal history record information maintained by DPS that relates to a person who is:

(1) an applicant for employment at or an employee of a facility other than a facility licensed under Chapter 142 (Home and Community Support Services), Health and Safety Code; or

(2) an applicant for employment at or an employee of a facility licensed under Chapter 142, Health and Safety Code, if the duties of employment involve direct contact with a consumer in the facility.

(b-1) Entitles a facility or a private agency on behalf of a facility to obtain from DPS criminal history record information maintained by DPS that relates to a person who is:

(1) an applicant for employment with, an employee of, or a volunteer with the facility;

(2) an applicant for employment with or an employee of a person or business that contracts with the facility; or

(3) a student enrolled in an educational program or course of study who is at the facility for educational purposes.

(c) Authorizes a facility:

(1) to obtain directly from DPS criminal history record information on a person described by Subsection (b-1), rather than on an applicant or employee described by Subsection (b); or

(2) authorize a private agency to obtain that information from DPS.

(e) Prohibits criminal history record information obtained by a facility, regulatory agency, or private agency on behalf of a facility under Subsection (b) or (b-1) from being released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

SECTION 3. Amends Section 250.002, Health and Safety Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Entitles a regulatory agency or a financial management services agency on behalf of an individual employer, rather than a facility, a regulatory agency, a financial management services agency on behalf of an individual employer, or a private agency on behalf of a facility, to obtain from DPS criminal history record information maintained by DPS that relates to a person who is:

(1) an applicant for employment at a facility other than a facility licensed under Chapter 142;

(2) an employee of a facility other than a facility licensed under Chapter 142;

(3) an applicant for employment at or an employee of a facility licensed under Chapter 142 whose employment duties would or do involve direct contact with a consumer in the facility; or

(2) an applicant for employment by or an employee of an individual employer.

(a-1) Entitles a facility or a private agency on behalf of a facility to obtain from DPS criminal history record information maintained by DPS that relates to a person who is:

- (1) an applicant for employment with, an employee of, or a volunteer with the facility;
- (2) an applicant for employment with or an employee of a person or business that contracts with the facility;
- (3) an applicant for employment by or an employee of an individual employer; or
- (4) a student enrolled in an educational program or course of study who is at the facility for educational purposes.

(b) Authorizes a facility to pay a private agency to obtain criminal history record information for a person described by Subsection (a-1), rather than for an applicant or employee described by Subsection (a), directly from DPS, or obtain the information directly from DPS.

SECTION 4. Amends Section 411.081(i), Government Code, to authorize a criminal justice agency to disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) (relating to the procedure for a person placed on deferred adjudication community supervision under certain circumstances) to certain noncriminal justice agencies or entities only, including a public or nonprofit hospital or hospital district, or a facility as defined Section 250.001 (Definitions), Health and Safety Code.

SECTION 5. Effective date: upon passage or September 1, 2013.