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GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

CHAPTER 411. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS

SUBCHAPTER D. ADMINISTRATIVE DIVISION

Tex. Gov't Code § 411.042 (1987)

§ 411.042. Bureau of Identification and Records

(a) The director shall appoint, with the advice and consent of the commission, a chief of the bureau of identification and records to be the executive officer of the bureau. The chief and at least one assistant must be recognized identification experts with at least three years' actual experience.

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons convicted of a felony within the state and of all well-known and habitual criminals;

(2) collect information concerning the number and nature of offenses known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state; and

(c) The bureau chief shall offer assistance and, if practicable, instruction to sheriffs, chiefs of police, and other peace officers in establishing efficient local bureaus of identification in their districts.

Subch. F. CRIMINAL HISTORY RECORD INFORMATION

GC §411.081. APPLICATION OF SUBCHAPTER. (a) This subchapter does not apply to criminal history record information that is contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry, including police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public;

(3) public judicial, administrative, or legislative proceedings;

(4) court records of public judicial proceedings;

(5) published judicial or administrative opinions; or

(6) announcements of executive clemency.

(b) This subchapter does not prohibit a criminal justice agency from disclosing to the public criminal history record information that is related to the offense for which a person is involved in the criminal justice system.

(c) This subchapter does not prohibit a criminal justice agency from confirming previous criminal history record information to any person on specific inquiry about whether a named person was arrested, detained, indicted, or formally charged on a specified date, if the information disclosed is based on data excluded by Subsection (b).

GC §411.082. DEFINITIONS. In this subchapter:

(1) "Administration of criminal justice" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(2) "Criminal history record information" means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

(B) driving record information maintained by the department under Section 21, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

(3) "Criminal justice agency" means:

(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or

(B) a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(4) "Criminal justice purpose" means:

(A) an activity that is included in the administration of criminal justice; or

(B) screening of applicants for employment with a criminal justice agency.

GC §411.083. DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION. (a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter, may not be disseminated by the department.

(b) The department shall grant access to criminal history record information to:

(1) criminal justice agencies;

(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;

(3) the person who is the subject of the criminal history record information;

(4) a person working on a research or statistical project that:

(A) is funded in whole or in part by state funds; or

(B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department; and

(5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4) or (b)(5) only for a purpose approved by the department and only under rules adopted by the department.

(d) The department is not required to release or disclose criminal history record information to any person that is not in compliance with rules adopted by the department under this subchapter or rules adopted by the Federal Bureau of Investigation that relate to the dissemination or use of criminal history record information.

GC §411.084. USE OF CRIMINAL HISTORY RECORD INFORMATION. Criminal history record information obtained from the department under this subchapter:

(1) is for the exclusive use of the authorized recipient of the information; and

(2) may be disclosed or used by the recipient only if, and only to the extent that, disclosure or use is authorized or directed by:

(A) this subchapter;

(B) another statute;

(C) a rule adopted under a statute; or

(D) an order of a court of competent jurisdiction.

GC §411.085. UNAUTHORIZED OBTAINING, USE, OR DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION; PENALTY. (a) A person commits an offense if the person knowingly or intentionally:

(1) obtains criminal history record information in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information;

(2) provides a person with a copy of the person's criminal history record information obtained from the department; or

(3) violates a rule of the department adopted under this subchapter.

(b) An offense under Subsection (a) is a Class B misdemeanor, except as provided by Subsection (c).

(c) An offense under Subsection (a) is a felony of the second degree if the person:

(1) obtains, uses, or discloses criminal history record information for remuneration or for the promise of remuneration; or

(2) employs another person to obtain, use, or disclose criminal history record information for remuneration or for the promise of remuneration.

(d) The department shall provide each person who applies for access to criminal history record information maintained by the department with a copy of this section.

GC §411.086. RULES. (a) The department shall adopt rules to administer this subchapter.

(b) Rules adopted by the department:

(1) shall provide for a uniform method of requesting criminal history record information from the department;

(2) may require a person requesting criminal history record information about an individual to submit to the department one or more of the following:

(A) the complete name, race, and sex of the individual;

(B) any known alias name of the individual;

(C) a complete set of the individual's fingerprints;

(D) a recent photograph of the individual;

(E) any known identifying number of the individual, including social security number, FBI number, driver's license number, or state identification number;

(F) the individual's date of birth;

(G) any known alias dates of birth of the individual; or

(H) any other information the department determines is necessary to identify the individual or the record;

(3) shall provide for the methods and formats for dissemination of criminal history record information; and

(4) shall provide security measures and policies that are designed to guard against unauthorized release or dissemination of criminal history record information that is maintained or disseminated by the department.

GC §411.087. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION MAINTAINED BY FEDERAL BUREAU OF INVESTIGATION OR LOCAL CRIMINAL JUSTICE AGENCY. (a) A person, agency, department, political subdivision, or other entity that is authorized by this subchapter to obtain from the department criminal history record information maintained by the department that relates to another person is authorized to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to that person; or

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

(b) Any restriction or limitation in this subchapter on criminal history record information that a person, agency, department, political subdivision, or other entity is entitled to obtain from the department applies equally to the criminal history record information that the person, agency, department, political subdivision, or other entity is entitled to obtain from the identification division of the Federal Bureau of Investigation or other criminal justice agency.

(c) Subsection (a) does not authorize a person, agency, department, political subdivision, or other entity to obtain criminal history record infor-

mation from the identification division of the Federal Bureau of Investigation if dissemination of criminal history record information by the division is prohibited by federal law, executive order, or rule.

(d) A person, agency, department, political subdivision, or other entity that is not a criminal justice agency is entitled to obtain criminal history record information from the Federal Bureau of Investigation only if:

(1) the requestor submits a complete set of the individual's fingerprints and other identifying information and pays any fee required or approved by the bureau;

(2) no disqualifying record or information from a state or local criminal justice agency is known to the requestor; and

(3) the request is not for the purpose of discriminating against a person because of the person's race, sex, age, disability, religion, color, or national origin.

(e) Subsection (a)(1) does not apply to a volunteer center under Section 411.126.

GC §411.088. FEES. (a) The department may charge a person that is not primarily a criminal justice agency a fee for processing inquiries for criminal history record information. The department may charge:

(1) a fee of $10 for each inquiry for criminal history record information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which event the fee is $1;

(2) a fee of $15 for each inquiry for criminal history record information on a person that is processed on the basis of a fingerprint comparison search; and

(3) actual costs for processing all other information inquiries.

(b) The department shall deposit all fees collected under this section in the Operator's and Chauffeur's License Fund.

GC §411.089. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CRIMINAL JUSTICE AGENCY. (a) A criminal justice agency is entitled to obtain from the department any criminal history record information maintained by the department about a person.

(b) Criminal history record information obtained under Subsection (a) may be released by the criminal justice agency:

(1) to any other criminal justice agency, if such release is for a criminal justice purpose; and

(2) through audio response terminals and radio devices, whether digital or voice, if such dissemination is in accordance with rules promulgated by the department.

GC §411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CENTRAL EDUCATION AGENCY. (a) The Central Education Agency is entitled to obtain from the department any criminal history record information maintained by the department about a person who has applied to the agency for a teaching certificate.

(b) Criminal history record information obtained by the agency under Subsection (a):

(1) may be used for any purpose related to the issuance, denial, suspension, or cancellation of a teaching certificate issued by the agency;

(2) may not be released to any person except on court order or with the

consent of the applicant for a teaching certificate; and

(3) shall be destroyed by the agency after the information is used for the authorized purposes.

GC §411.091. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION. (a) The Texas Alcoholic Beverage Commission is entitled to obtain from the department criminal history record information maintained by the department that:

(1) the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code; or

(2) pertains to a person who, under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is:

(A) an operator or an applicant to act as an operator of bingo occasions;

(B) an officer of an organization that applies for or holds a license to conduct bingo;

(C) a person who works at or will work at proposed bingo games;

(D) an applicant for a license to act or a person who holds a license to act as a commercial lessor, manufacturer, or distributor;

(E) a spouse of or a person related in the first degree by consanguinity or affinity, as determined under Article 5996h, Revised Statutes, to:

(i) a person who has a greater than 10 percent proprietary, equitable, or credit interest; or

(ii) a person who is an employee of or is active in a firm or corporation applying for a license to act or a person who holds a license to act as a commercial lessor, manufacturer, or distributor; or

(F) a person required to be named in an application for a license to act or a person who holds a license to act as a commercial lessor, manufacturer, or distributor.

(b) Criminal history record information obtained by the commission under Subsection (a)(1) may be used only for the enforcement and administration of the Alcoholic Beverage Code.

(c) Criminal history record information obtained by the commission under Subsection (a)(2):

(1) may be used only for the enforcement and administration of the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes); and

(2) may not be released to any person or agency except on court order or with the written consent of the person being investigated, unless the information is entered into evidence by the commission at an administrative hearing under that Act.

GC §411.0915. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION OF POLITICAL SUBDIVISIONS: TEXAS ALCOHOLIC BEVERAGE COMMISSION. The commission is entitled to receive criminal history record information, without charge, from any political subdivision of this state. Information obtained may only be used by the commission for the enforcement of the Alcoholic Beverage Code.

GC §411.092. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BANKING COMMISSIONER. (a) The banking commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under Article 350, Revised Statutes; or

(2) a principal of an applicant for a license under that article.

(b) Criminal history record information obtained by the commissioner under Subsection (a), except on court order or as provided by Subsection (c), may not be released or disclosed to any person.

(c) The commissioner is not prohibited from disclosing to the individual who is the subject of the information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

GC §411.093. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF LICENSING AND REGULATION. (a) The Texas Department of Licensing and Regulation is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under the Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes); or

(2) the holder of a license under that Act.

(b) The Texas Department of Licensing and Regulation is entitled only to criminal history record information that relates to the arrest or conviction of the person.

GC §411.094. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INSTITUTION OF HIGHER EDUCATION. (a) In this section:

(1) "Institution of higher education":

(A) has the meaning assigned by Section 61.003, Education Code; or

(B) means a private institution of higher education that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(2) "Security-sensitive position" means employment in an institution of higher education held by an employee who:

(A) handles currency;

(B) has access to a computer terminal;

(C) has access to a master key; or

(D) works in a location designated as a security-sensitive area.

(b) An institution of higher education is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a security-sensitive position.

(c) Criminal history record information obtained by an institution of higher education under Subsection (b) may be used only for the purpose of evaluating applicants for employment in security-sensitive positions.

(d) Conviction information received by an institution of higher education under Subsection (b) may not be released or disclosed to any person except on court order.

(e) After the expiration of the probationary term of the individual's employment, all criminal history record information obtained about an individual under Subsection (b) shall be destroyed by the chief of police of the institution of higher education.

GC §411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. (a) The consumer credit commissioner is entitled to obtain from the department criminal history record information that relates to a person who is:

(1) an applicant for a license under the Texas Pawnshop Act (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes); or

(2) the holder of a license under that Act.

(b) The commissioner is entitled only to criminal history record information that relates to the arrest or conviction of the person.

GC §411.096. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS RACING COMMISSION. (a) The Texas Racing Commission is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who is:

(1) appointed to the commission;

(2) an applicant for employment by the commission; or

(3) an applicant for a license under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in a hearing conducted by the commission, on court order, or with the consent of the applicant.

GC §411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SCHOOL DISTRICT. (a) In this section, "school district" means any public school district in this state.

(b)(1) A school district is entitled to obtain from the department criminal history record information maintained by the department that the district is required or authorized to obtain under Section 21.917, Education Code, that relates to a person who is:

(A) an applicant for employment by the district; or

(B) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district to provide transportation services if the employee drives or the applicant will drive a bus in which students of the district are transported.

(2) A school district is entitled to obtain from the department, no more than twice each year, criminal history record information maintained by the department that the district is required or authorized to obtain under Section 21.917, Education Code, that relates to a person who is a current employee of the school district.

(c) Criminal history record information obtained by a school district under Subsection (b) may not be released or disclosed to any person, other than the individual who is the subject of the information, the Central Education Agency, or a person specified in Section 21.917(h), Education Code.

GC §411.0975. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PRIVATE SCHOOLS. (a) In this section, "private school" means a school that:

(1) offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(2) is not operated by a government entity.

(b) A private school is entitled to obtain from the department criminal history record information maintained by the department that a school district is required to authorize to obtain under Section 21.917, Education Code, that relates to a person who is:

(1) an employee of the private school;

(2) an applicant for employment by the private school; or

(3) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the private school to provide transportation services if the employee drives or the applicant will drive

a bus in which students of the private school are transported.

(c) Criminal history record information obtained by a private school under Subsection (b) may not be released or disclosed to any person, other than the individual who is the subject of the information, the Central Education Agency, or a person specified in Section 21.917(h), Education Code.

GC §411.098. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED. (a) The Texas School for the Blind and Visually Impaired is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

(b) Criminal history record information obtained by the school under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, or volunteer with a copy of their respective criminal history record information obtained from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency.

(e) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to school employees, professional consultants, and applicants for permanent, temporary, or consultative employment or volunteer positions whose employment or potential employment or volunteer position with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

GC §411.099. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF MEDICAL EXAMINERS. The Texas State Board of Medical Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes); or

(2) the holder of a license under that Act.

GC §411.100. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BOARD OF LAW EXAMINERS. (a) The Board of Law Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant to take a bar examination.

(b) Criminal history record information obtained by the board under Subsection (a) may not be released or disclosed to any person, except on court order or with consent of the applicant.

(c) Immediately following the board's decision on recommending an applicant, the board shall collect and seal all criminal history record informa-

tion obtained by the board that relates to that applicant.

GC §411.101. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STRUCTURAL PEST CONTROL BOARD. The Texas Structural Pest Control Board is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a structural pest control business license under the Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes);

(2) an applicant for a certified applicator's license under that Act; or

(3) a holder of a structural pest control business license or a certified applicator's license under that Act.

GC §411.102. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MCGRUFF HOUSE PROGRAM. (a) In this section:

(1) "McGruff House" means a house that has been designated as a temporary haven for school-age children by a McGruff House program.

(2) "McGruff House program" means a program organized by local law enforcement agencies and civic organizations to provide a temporary haven and sense of security to school-age children in emergency or threatening situations.

(b) A local law enforcement agency involved in establishing a McGruff House program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an adult residing in a McGruff House.

GC §411.103. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CHILD WATCH PROGRAM. (a) In this section, "child watch program" means a program organized by a local civic organization with the cooperation of a school district to protect schoolchildren by having parents or volunteers patrol their residential neighborhoods and schools to watch for suspicious activity, dangers, and threats to children.

(b) A local law enforcement agency that participates in a child watch program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a participant in the program; and

(2) gives written consent to the disclosure of the information.

(c) Criminal history record information obtained by a law enforcement agency under Subsection (b) may not be released or disclosed except on court order or with the consent of the person who is the subject of the criminal history record information.

GC §411.104. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EMPLOYMENT COMMISSION. (a) In this section, "security sensitive position" has the meaning assigned by Section 11-E(a), Texas Unemployment Compensation Act (Article 5221b-9e, Vernon's Texas Civil Statutes).

(b) The Texas Employment Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a security sensitive position.

(c) Criminal history record information obtained by the commission under Subsection (b) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

(d) After the commission hires an applicant for a security sensitive position, the commission shall seal the criminal history record information that relates to the applicant and deliver the information to the agency administrator or the administrator's designee, who shall destroy the information.

(e) The commission shall destroy the criminal history record information of an applicant who is not hired.

GC §411.105. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. The Texas State Board of Public Accountancy is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for certification as a certified public accountant under the Public Accountancy Act of 1991 (Article 41a-1, Vernon's Texas Civil Statutes);

(2) an applicant to take the uniform CPA examination under that Act; or

(3) an applicant to register under Section 14 of that Act.

GC §411.106. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF INSURANCE. (a) The Texas Department of Insurance for good cause shown is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license, permit, certificate of authority, certificate of registration, or other authorization issued by the State Board of Insurance to engage in an activity regulated under the Insurance Code; or

(2) a corporate officer of an insurance company regulated by the Texas Department of Insurance.

(b) Criminal history record information obtained by the Texas Department of Insurance under Subsection (a) may not be disclosed or released to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(c) After the Texas Department of Insurance makes a determination as to the issuance of a license or certificate of authority to an applicant, the Texas Department of Insurance shall seal the criminal history record information regarding the applicant and shall deliver the information to the commissioner of insurance or the commissioner's designee, who shall maintain the information as provided by State Board of Insurance rule.

GC §411.107. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: RECEIVER. (a) In this section, "receiver" has the meaning assigned by Article 21.28, Insurance Code.

(b) A receiver is entitled to obtain from the department criminal history record information maintained by the department that the receiver believes is necessary for the investigation of any matter relating to a receivership estate.

(c) Criminal history record information obtained by a receiver under Subsection (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) A receiver may destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

GC §411.108. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMPTROLLER OF PUBLIC ACCOUNTS. (a) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who, under the State Lottery Act (Article 179g, Vernon's Texas Civil Statutes), is:

(1) a sales agent or an applicant for a sales agent license;

(2) a person required to be named in a license application;

(3) a lottery operator or prospective lottery operator;

(4) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(5) a person who manufactures or distributes lottery equipment or supplies or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6) a person who has submitted a written bid or proposal to the division in connection with the procurement of goods or services by the division, if the amount of the bid or proposal exceeds $500;

(7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8) a person who proposes to enter into or who has a contract with the division to supply goods or services to the division;

(9) if a person described in Subdivisions (1) through (8) of this section is not an individual, an individual who:

(A) is an officer or director of the person;

(B) holds more than 10 percent of the stock in the person;

(C) holds an equitable interest greater than 10 percent in the person;

(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;

(F) shares or will share in the profits, other than stock dividends, of the person;

(G) participates in managing the affairs of the person; or

(H) is an employee of the person who is or will be involved in:

(i) selling tickets; or

(ii) handling money from the sale of tickets;

(10) the director or a prospective director of the lottery division;

(11) an employee or prospective employee of the lottery division; or

(12) a sales agent whose license is renewed under Section 3.01(h) of that Act.

(b) Criminal history record information obtained by the comptroller under Subsection (a) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

(c) The comptroller is not prohibited from disclosing to the person who is the subject of the criminal history record information the dates and places of arrests, offenses, and dispositions contained in the criminal history record information.

GC §411.109. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE TREASURER. (a) The treasurer is entitled to obtain from the department criminal history record information maintained by the department that the treasurer believes is necessary for the enforcement or administration of Chapter 154 or Chapter 155, Tax Code, including criminal history record

information that relates to a person who is:

(1) an applicant for a permit under Chapter 154 or Chapter 155, Tax Code;

(2) a permit holder under either of those chapters;

(3) an officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, owner, or managing employee of an applicant or permit holder under either of those chapters that is a corporation, association, joint venture, syndicate, partnership, or proprietorship;

(4) believed to have violated Chapter 154 or Chapter 155, Tax Code; or

(5) being considered by the treasurer for employment as a peace officer.

(b) Criminal history record information obtained by the treasurer under Subsection (a) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

(c) The treasurer is not prohibited from disclosing to a person who is the subject of criminal history record information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

GC §411.110. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF HEALTH. (a) The Texas Department of Health is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license or certificate under the Emergency Medical Services Act (Chapter 773, Health and Safety Code);

(2) an owner or manager of an applicant for an emergency medical services provider license under that Act; or

(3) the holder of a license or certificate under that Act.

(b) Criminal history record information obtained by the Texas Department of Health under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (e).

(c) After an entity is licensed or certified, the Texas Department of Health shall destroy the criminal history record information that relates to that entity.

(d) The Texas Board of Health shall destroy criminal history record information that relates to an applicant that is not certified.

(e) The Texas Board of Health is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Department of Health.

GC §411.111. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DISTRICT COURT; NAME CHANGES. A district court is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an adult; and

(2) has petitioned the court to order a change of name for the person.

GC §411.112. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION. The Commission on Law Enforcement Officer Standards and Education is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under Chapter 415; or

(2) the holder of a license under that chapter.

GC §411.113. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE DEAF. (a) The Texas School for the Deaf is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

(b) Criminal history record information obtained by the school under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, or volunteer with a copy of his or her respective criminal history record information obtained from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency.

(e) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to school employees, professional consultants, and applicants for permanent, temporary, or consultative employment or volunteer positions whose employment or potential employment or volunteer position with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

GC §411.114. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. (a)(1) In this subsection the terms "child," "child-care facility," and "family home" have the meanings assigned by Section 42.002, Human Resources Code.

(2) The Department of Protective and Regulatory Services is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(A) an applicant for a license, registration, or certification under Chapter 42, Human Resources Code;

(B) an owner or employee of or an applicant for employment by a child-care facility licensed, registered, or certified under that chapter;

(C) a resident of a registered family home, but not 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 direct delivery of protective services to children, elderly persons, or persons with a disability;

(E) a volunteer or applicant volunteer with a local affiliate in this state of Big Brothers/Big Sisters of America;

(F) a volunteer or applicant volunteer with the "I Have a Dream/Houston" program;

(G) an employee of a business entity that provides in-home respite care of children with temporary illnesses;

(H) an employee of a home health agency;

(I) a volunteer or applicant volunteer with an organization that pro-

vides court-appointed special advocates for abused or neglected children;

(J) a person providing or applying to provide adoptive or foster care for children in the care of the Department of Protective and Regulatory Services and other adults living with that person in the residence in which the child will reside;

(K) a Department of Protective and Regulatory Services employee who is engaged in the direct delivery of protective services to children, elderly persons, or persons with a disability on the date the department implements this section;

(L) a person who is the subject of a report the department receives alleging that the person has abused or neglected a child, an elderly person, or a person with a disability, provided that report has proven to have merit after investigation; or

(M) a relative providing or applying to provide in-home care for a child in the care of the Department of Protective and Regulatory Services and other adults living with that relative in the residence in which the child will reside.

(3) The Department of Protective and Regulatory Services is entitled, under this subsection, only to criminal history record information that relates to:

(A) an offense classified as an offense against the person or the family;

(B) an offense classified as public indecency; or

(C) a felony violation of a statute intended to control the possession or distribution of a substance included in Chapter 481, Health and Safety Code.

(4) Criminal history record information obtained by the Department of Protective and Regulatory Services under this subsection may not be released to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subdivision (5).

(5) The Department of Protective and Regulatory Services is not prohibited from releasing criminal history record information obtained under this subsection to the person who is the subject of the criminal history record information or to a child-care facility that employs or is considering employing the person who is the subject of the criminal history record information.

(b)(1) In this subsection, "facility" has the meaning assigned by Section 106.001, Human Resources Code.

(2) The Department of Protective and Regulatory Services, on behalf of the Texas Department of Health, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(A) an applicant for employment at a facility; or

(B) an employee of a facility.

(3) The Department of Protective and Regulatory Services is entitled to obtain, under this subsection, only criminal history record information that relates to:

(A) an offense classified as an offense against the person or the family;

(B) an offense classified as public indecency;

(C) a felony violation of a statute intended to control the possession or distribution of a substance included in Chapter 481, Health and Safety

Code, or Section 485.033, Health and Safety Code;

(D) a felony offense under Section 31.03, Penal Code; or

(E) an offense under Section 29.02, 29.03, or 30.02, Penal Code.

(4) Criminal history record information obtained by the Department of Protective and Regulatory Services under this subsection may not be released to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subdivision (5).

(5) The Department of Protective and Regulatory Services is not prohibited from disclosing criminal history record information obtained under this subsection to the Texas Department of Health or to the facility for which the Department of Protective and Regulatory Services requested the information.

GC §411.115. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; COMMUNITY CENTERS. (a) In this section, "community center" has the meaning assigned by Section 531.002, Health and Safety Code.

(b) The Texas Department of Mental Health and Mental Retardation or a community center is entitled to obtain from the department criminal history record information maintained by the department that relates to a person:

(1) who is:

(A) an applicant for employment with the Texas Department of Mental Health and Mental Retardation;

(B) an employee of the Texas Department of Mental Health and Mental Retardation;

(C) an applicant for employment with a community center;

(D) an employee of a community center;

(E) an applicant for employment with or an employee of a business or person that contracts with the Texas Department of Mental Health and Mental Retardation or a community center to provide residential services to patients with mental illness or clients with mental retardation who were furloughed or discharged from a Texas Department of Mental Health and Mental Retardation facility or community center;

(F) a volunteer with the Texas Department of Mental Health and Mental Retardation;

(G) a volunteer with a community center; or

(H) a volunteer applicant; and

(2) who would be placed in direct contact with patients with mental illness or clients with mental retardation.

(c) The Texas Department of Mental Health and Mental Retardation or a community center is entitled to obtain only criminal history record information that relates to:

(1) a sexual offense;

(2) a drug-related offense;

(3) a theft offense;

(4) criminal homicide;

(5) assault or battery; or

(6) an offense involving personal injury or threat.

(d) Criminal history record information obtained by the mental health department or a community center under Subsection (b) may not be released or disclosed to a person, other than the contractor that employs the per-

son who is the subject of the criminal history record information, except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) The Texas Department of Mental Health and Mental Retardation shall collect and destroy conviction information that relates to a person immediately after the department or a contractor makes an employment decision or takes any personnel action relating to the person who is the subject of the criminal history record information.

GC §411.116. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ORGANIZATION PROVIDING CERTAIN NURSE AIDES. (a) In this section:

(1) "Facility" has the meaning assigned by Section 106.001, Human Resources Code.

(2) "Nurse aide" has the meaning assigned by Chapter 106, Human Resources Code.

(3) "Organization that provides temporary nurse aides" includes a temporary employment service, nursing pool, private duty nurse service, or sitter service.

(b) An organization that provides temporary nurse aides to a facility is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a nurse aide; and

(2) a candidate for referral by the organization to a facility.

GC §411.117. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS REHABILITATION COMMISSION. The Texas Rehabilitation Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for rehabilitation services of the Texas Rehabilitation Commission; or

(2) a client of the Texas Rehabilitation Commission.

GC §411.118. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYER AT SUBSIDIZED HOUSING RESIDENCE. (a) In this section, "employer," "employee," "occupant," and "subsidized housing residence" have the meanings assigned by Section 135.001, Human Resources Code.

(b) An employer is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who:

(1) is an applicant for a position of employment in a subsidized housing residence to whom an offer of employment is made; and

(2) may be reasonably required to have access to the residence of an occupant who is elderly or disabled.

(c) An employer is entitled to obtain only criminal history record information that relates to:

(1) an offense classified as:

(A) an offense against the person or the family;

(B) an offense against property; or

(C) public indecency; or

(2) a felony violation of a statute intended to control the possession or distribution of a substance regulated under Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code.

(d) Criminal history record information obtained under Subsection (b) may

not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

GC §411.119. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES. The Texas Board of Private Investigators and Private Security Agencies is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license, registration, or security officer commission under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes); or

(2) an applicant for a position regulated under that Act.

GC §411.120. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY JUDGE; CERTAIN APPLICANTS. (a) The county judge of a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a wine and beer retailer's permit under Chapter 25, Alcoholic Beverage Code; or

(2) an applicant for a retail dealer's on-premise license under Chapter 69 of that code.

(b) Criminal history record information obtained by a county judge under Subsection (a) may not be released or disclosed to any person except in a hearing held under Chapter 25 or 69, Alcoholic Beverage Code.

GC §411.121. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ADJUTANT GENERAL. (a) In this section:

(1) "Adjutant general" has the meaning assigned by Section 431.022.

(2) "State military forces" has the meaning assigned by Section 431.001.

(b) The adjutant general is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a member of the state military forces;

(2) an employee of the adjutant general's department;

(3) an applicant for enlistment in the state military forces; or

(4) an applicant for employment with the adjutant general's department.

(c) The adjutant general is entitled to criminal history record information under Subsection (b)(3) or (b)(4) only if the adjutant general submits to the department a signed statement from the applicant that authorizes the adjutant general to obtain the information.

(d) Criminal history record information obtained by the adjutant general under Subsection (b) may not be released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) The adjutant general shall destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

GC §411.122. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LICENSING OR REGULATORY AGENCY. (a) Except as provided by Subsection (c)(2), an agency of this state or a political subdivision of this state covered by Article 6252-13c, Revised Statutes, that licenses or regulates

members of a particular trade, occupation, business, vocation, or profession is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license from the agency; or

(2) the holder of a license from the agency.

(b) Under this section, an agency is entitled to obtain only criminal history record information that relates to the conviction of the person.

(c) This section does not apply to an agency that is:

(1) specifically authorized by this subchapter to obtain criminal history record information from the department; or

(2) covered by Section 2, Article 6252-13c, Revised Statutes.

GC §411.123. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MUNICIPAL FIRE DEPARTMENT. (a) A fire department that is operated by a municipality in this state is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a beginning position with the fire department; and

(2) required to be certified by the Texas Commission on Fire Protection.

(b) A fire department is entitled to obtain only criminal history record information that relates to the conviction of the person.

GC §411.1235. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER FIRE DEPARTMENTS. (a) A volunteer fire department or a fire department operated by a rural fire prevention district is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is required to be certified by the Texas Commission on Fire Protection and:

(1) is an applicant for a beginning position with the fire department; or

(2) currently holds a position with that fire department.

(b) A fire department is entitled to obtain only criminal history record information that relates to the conviction of the person.

(c) A fire department may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

GC §411.124. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: POLITICAL SUBDIVISIONS; PUBLIC TRANSPORTATION DRIVERS. (a) A political subdivision of this state that employs, licenses, or regulates drivers of public transportation vehicles is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) the driver of a public transportation vehicle; and

(2) employed, licensed, or regulated by the political subdivision.

(b) A municipality is entitled to obtain only criminal history record information that relates to a conviction of the person.

GC §411.125. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BOARD OF NURSE EXAMINERS. (a) The Board of Nurse Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an applicant for a license from the board;

(2) has requested a determination of eligibility for a license from the board; or

(3) is subject to investigation by the board in connection with a complaint or formal charge against the person.

(b) The board is entitled to obtain only criminal history record information that relates to a conviction of the person for an offense that:

(1) is classified as a felony;

(2) is classified as a misdemeanor involving moral turpitude;

(3) is an offense involving the abuse of a drug, including alcohol; or

(4) resulted in the revocation of probation imposed following a conviction of an offense specified in Subdivision (1), (2), or (3).

GC §411.126. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER CENTER OF DALLAS COUNTY. (a) In this section:

(1) "Volunteer center" means a nonprofit, tax-exempt organization:

(A) whose primary purpose is to recruit and refer individual volunteers for other nonprofit groups in that area;

(B) that is certified as a bona fide volunteer center by the department; and

(C) that is operating on the effective date of this Act as "Volunteer Center of Dallas County."

(2) "Volunteer" or "volunteer applicant" means a person who will perform one or more of the following services without remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person; or

(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated.

(3) "Employee" or "employee applicant" means a person who will perform one or more of the following services or functions for remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person;

(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated;

(D) coordination or referral of volunteers; or

(E) executive administrative responsibilities.

(4) "Client agency" means a nonprofit agency served by a volunteer center.

(b) A volunteer center is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an employee, an employee applicant, a volunteer, or a volunteer applicant of the volunteer center; or

(2) an employee, an employee applicant, a volunteer, or a volunteer applicant of a client agency.

(c) A volunteer center is entitled to obtain from the department only criminal history record information that relates to a conviction.

(d) The department may establish rules governing the administration of this section.

(e) A volunteer center may disseminate criminal history record information to a client agency, if the client agency has been approved by the department.

(f) A volunteer center or client agency may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

GC §411.127. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT. (a) The attorney general is entitled to obtain from the Department of Public Safety criminal history record information maintained by the department that relates to a person who is an applicant for a position of employment with the attorney general that involves the performance of duties under Chapter 76, Human Resources Code. The attorney general may not request the information unless a supervisory employee of the attorney general's office has recommended that the applicant be hired.

(b) Criminal history record information obtained by the attorney general under Subsection (a) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(c) The attorney general shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

GC §411.128. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PERSON SEEKING TO ADOPT CHILD.* *[as added by Acts 1995, 74th Leg., ch. 751.]* (a) A person seeking to adopt a child under Chapter 162, Family Code, who is ordered by the court to obtain the person's own criminal history record information from the department under Section 162.0085, Family Code, shall request the information as provided by this section.

(b) A person requesting information under this section shall provide the department with the name and address of the court and the date set for the adoption hearing.

(c) The department shall provide the court with criminal history record information not later than the 10th day after the date on which the criminal history record information is requested.

(d) Criminal history record information requested under this section may not be released or disclosed to a person other than the court ordering the investigation except on court order or with the consent of the person who is the subject of the criminal history record information.

GC §411.128. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PERSON SEEKING TO ADOPT CHILD.* *[as added by Acts 1995, 74th Leg., ch. 908.]* (a) A person seeking to adopt a child under Chapter 162, Family Code, who is ordered by the court to obtain the person's own criminal history record information from the department under Section 162.0085, Family Code, shall request the information as provided by this section.

(b) A person requesting information under this section shall provide the department with the name and address of the court and the date set for the adoption hearing.

(c) The department shall provide the court with criminal history record information not later than the 10th day before the date set for the adoption hearing.

(d) Criminal history record information requested under this section may not be released or disclosed to a person other than the court ordering the investigation except on court order or with the consent of the person who is the subject of the criminal history record information.

Texas Revised Civil Statutes

Art. 4413(14). The Bureau of Identification and Records

(1) It shall be the duty of the Director to appoint, with the advice and consent of the Commission, a Chief of the Bureau of Identification and Records, who shall be the executive officer. The Chief of the Bureau and at least one assistant shall be recognized identification experts, and with at least three years' actual experience. This Bureau shall procure and file for record, photographs, pictures, descriptions, fingerprints, measurements and such other information as may be pertinent, of all persons who have been or may hereafter be convicted of a felony within the State, and also of all well known and habitual criminals wheresoever the same may be procured. The Bureau shall collect information concerning the number and nature of offenses known to have been committed in this State, of the legal steps taken in connection therewith, and such other information as may be useful in the study of crime and the administration of justice. It shall be the duty of the Bureau to co-operate with the bureaus in other states, and with the Department of Justice in Washington, D. C. It shall be the duty of the Chief of the Bureau to offer assistance, and, when practicable, instruction, to sheriffs, chiefs of police, and other peace officers in establishing efficient local bureaus of identification in their districts.

(2) The Bureau shall make ballistic tests of bullets and firearms, and chemical analyses of bloodstains, cloth, materials and other substances, for the officers of the State charged with law enforcement.

Texas Code Criminal Procedure

CHAPTER FIFTY-FIVE—EXPUNCTION OF CRIMINAL RECORDS

Acts 1979, 66th Leg., p. 1333, ch. 604, which by § 1 amended this Chapter 55, provided in § 3:

"Any law or portion of a law that conflicts with Chapter 55, Code of Criminal Procedure, 1965, as amended, is repealed to the extent of the conflict."

Article 55.01. Right to expunction

A person who has been arrested for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if each of the following conditions exist:

(1) an indictment or information charging him with commission of a felony has not been presented against him for an offense arising out of the transaction for which he was arrested or, if an indictment or information charging him with commission of a felony was presented, it has been dismissed and the court finds that it was dismissed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(2) he has been released and the charge, if any, has not resulted in a final conviction and, is no longer pending and there was no court ordered supervision under Article 42.13, Code of Criminal Procedure, 1965, as amended, nor a conditional discharge under Section 4.12 of the Texas Controlled Substances Act (Article 4476—15, Vernon's Texas Civil Statutes); and

(3) he has not been convicted of a felony in the five years preceding the date of the arrest.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.

Art. 55.02. Procedure for Expunction

Section 1. (a) A person who is entitled to expunction of records and files under this chapter may file an ex parte petition for expunction in a district court for the county in which he was arrested.

(b) The petitioner shall include in the petition a list of all law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state and of all central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction.

Sec. 2. The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition by certified mail, return receipt requested, and such entity may be represented by the attorney responsible for providing such agency with legal representation in other matters.

Sec. 3. (a) If the court finds that the petitioner is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order directing expunction and directing any state agency that sent information concerning the arrest to a central federal depository to request such depository to return all records and files subject to the order of expunction. Any petitioner or agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases. When the order of expunction is final, the clerk of the court shall send a certified copy of the order by certified mail, return receipt requested, to each official or agency or other entity of this state or of any political subdivision of this state named in the petition that there is reason to believe has any records or files that are subject to the order. The clerk shall also send a certified copy by certified mail, return receipt requested, of the order to any central federal depository of criminal records that there is reason to believe has any of the records, together with an explanation of the effect of the order and a request that the records in possession of the depository, including any information with respect to the proceeding under this article, be destroyed or returned to the court.

(b) All returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.

Sec. 4. (a) If the state establishes that the petitioner is still subject to conviction for an offense arising out of the transaction for which he was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against him for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(b) Unless the petitioner is again arrested for or charged with an offense arising out of the transaction for which he was arrested, the provisions of Articles 55.03 and 55.04 of this code apply to files and records retained under this section.

Sec. 5. (a) On receipt of the order, each official or agency or other entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or, if removal is impracticable, obliterate all portions of the record or file that identify the petitioner and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(b) The court may give the petitioner all records and files returned to it pursuant to its order.

(c) If an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the petitioner unless the order permits retention of a record under Section 4 of this article and the petitioner is again arrested for or charged with an offense arising out of the transaction for which he was arrested. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.

Art. 55.03. Effect of Expunction

After entry of an expunction order:

(1) the release, dissemination, or use of the expunged records and files for any purpose is prohibited;

(2) except as provided in Subdivision 3 of this article, the petitioner may deny the occurrence of the arrest and the existence of the expunction order; and

(3) the petitioner or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.

Art. 55.04. Violation of Expunction Order

Section 1. A person who acquires knowledge of an arrest while an officer or employee of the state or of any agency or other entity of the state or any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if he knowingly releases, disseminates, or otherwise uses the records or files.

Sec. 2. A person who knowingly fails to return or to obliterate identifying portions of a record or file ordered expunged under this chapter commits an offense.

Sec. 3. An offense under this article is a Class B misdemeanor.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.

Art. 55.05. Notice of Right to Expunction

On release or discharge of an arrested person, the person responsible for the release or discharge shall give him a written explanation of his rights under this chapter and a copy of the provisions of this chapter.

Amended by Acts 1979, 66th Leg., p. 1333, ch. 604, § 1, eff. Aug. 27, 1979.

Texas Education Code

Chapter 21

§ 21.917. Access to Police Records of Employment Applicants

(a) A school district is entitled to obtain criminal history record information that relates to an applicant for employment with the district if, at the time of the request for the information, the district submits to the custodian of the information a signed statement from the employment applicant authorizing the district to obtain the information.

(b) A school district may obtain information under this section from any law enforcement agency, including a police department or the Department of Public Safety, or from the Texas Department of Corrections.

(c) A school district may use information obtained under this section only for the purpose of evaluating applicants for employment.

Added by Acts 1981, 67th Leg., p. 1867, ch. 444, § 1, eff. Aug. 31, 1981.

3-6-21-394*

AN ACT

relating to criminal history checks of employees and applicants for employment in certain facilities serving the elderly or persons with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 250, Health and Safety Code, is amended to read as follows:

CHAPTER 250. NURSE AIDE REGISTRY AND CRIMINAL HISTORY CHECKS OF EMPLOYEES AND APPLICANTS FOR EMPLOYMENT IN CERTAIN FACILITIES SERVING THE ELDERLY OR PERSONS WITH DISABILITIES

Sec. 250.001. DEFINITIONS. In this chapter:

(1) "Nurse aide registry" means a list maintained by the Texas Department of Human Services [department] of nurse aides under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203).

(2) [~~"Board" means the Texas Board of Health.~~

[~~(3) "Department" means the Texas Department of Health.~~

[~~(4)~~] "Direct contact with a consumer" means any contact with a resident or client [~~or a family member or visitor of a resident or client~~] in a facility covered by this chapter.

(3) [~~(5)~~] "Facility" means:

(A) a nursing home, custodial care home, or

other institution licensed by the Texas Department of Human Services [department] under Chapter 242;

(B) a personal care facility licensed by the Texas Department of Human Services [department] under Chapter 247;

(C) a home health agency licensed by the Texas Department of Health [department] under Chapter 142;

(D) an adult day care facility or adult day health care facility licensed by the Texas Department of Human Services [department] under Chapter 103, Human Resources Code;

(E) a facility for persons with mental retardation licensed or certified by the Texas Department of Human Services [department];

(F) an unlicensed attendant care agency that contracts with the Texas Department of Human Services;

(G) an intermediate care facility for persons with mental retardation that is certified by the Texas Department of Human Services to participate in the Medicaid program under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.); [or]

(H) an adult foster care provider that contracts with the Texas Department of Human Services; or

(I) a facility that provides mental health services and that is operated by or contracts with the Texas Department of Mental Health and Mental Retardation.

(4) "Private agency" means a person engaged in the business of obtaining criminal history checks on behalf of a facility.

(5) "Regulatory agency" means a state agency referred to in Subdivision (3).

Sec. 250.002. INFORMATION OBTAINED BY REGULATORY AGENCY OR PRIVATE AGENCY. (a) A regulatory agency or a private agency on behalf of a facility is entitled to obtain from the Department of Public Safety of the State of Texas criminal history record information maintained by the Department of Public Safety that relates to a person who is an applicant for employment at a facility licensed, certified, or under contract with the agency, as specified by Section 250.001(3), or who is an employee of that facility, and whose employment duties would or do involve direct contact with a consumer in a facility.

(b) A facility may pay a private agency to obtain criminal history record information for an applicant or employee described by Subsection (a) directly from the Department of Public Safety of the State of Texas or from the regulatory agency that obtains the information from the Department of Public Safety of the State of Texas regarding that facility.

(c) The regulatory agency or private agency, as appropriate, shall forward criminal history record information received under this section to the facility requesting the information.

(d) A regulatory agency may adopt rules relating to the processing of information requested or obtained under this chapter.

Sec. 250.003 [250.002]. VERIFICATION OF EMPLOYABILITY; DISCHARGE. (a) A facility may not employ a person in a position the duties of which involve direct contact with a consumer in the facility if the facility determines, as a result [results] of a

1 criminal history check, [reveal] that a person has been convicted
2 of an offense listed in this chapter that bars employment or that a
3 conviction is a contraindication to employment with the consumers
4 the facility serves, and if the applicant is a nurse aide, until
5 the facility further verifies that the applicant is listed in the
6 nurse aide registry and verifies that the applicant is not
7 designated in the registry as having a finding entered into the
8 registry concerning abuse, neglect, or mistreatment of a consumer
9 of a facility, or misappropriation of a consumer's property. A
10 person licensed under another law of this state is exempt from the
11 requirements of this chapter.
12 (b) The facility may not employ an applicant covered by
13 Subsection (a) [the-applicant-if-it-is-notified-by-the-department
14 that-a-conviction-bars-employment], except that in an emergency
15 requiring immediate employment, a facility may hire on a temporary
16 or interim basis a person not listed in the registry pending the
17 results of a criminal conviction check, which must be requested
18 [submitted] within 72 hours of employment. The request shall be
19 mailed, sent by telephonic facsimile machine, sent by electronic
20 means, or otherwise forwarded to the facility's regulatory agency
21 by the facility or a private agency working with the facility, or
22 to the Department of Public Safety of the State of Texas by a
23 private agency working with the facility.
24 (c) A facility shall immediately discharge any employee in a
25 position the duties of which involve direct contact with a consumer
26 in the facility who is designated in the nurse aide registry as
27 having committed an act of abuse, neglect, or mistreatment of a

consumer of a facility, or misappropriation of a consumer's property, or whose criminal history check reveals conviction of a crime that bars employment or that the facility determines is a contraindication to employment as provided by this chapter.

Sec. 250.004 [250.003]. CRIMINAL HISTORY RECORD OF EMPLOYEES. (a) Identifying information, including mailing addresses, of employees in direct contact with consumers in covered facilities shall be submitted to the Department of Public Safety to obtain the person's criminal conviction record when the person applies for employment and at other times as the [department--or the] facility may determine appropriate.

(b) If the Department of Public Safety reports [to the department] that a person has a criminal conviction of any kind, the conviction shall be reviewed by the facility [department] to determine if the conviction may bar the person from employment in a facility under Section [250.005 or] 250.006 or if the conviction may be a contraindication to employment.

Sec. 250.005 [250.004]. NOTICE AND OPPORTUNITY TO BE HEARD CONCERNING ACCURACY OF INFORMATION [FOR--ADMINISTRATIVE--REVIEW]. (a) If a facility [the department] believes that a conviction may bar a person from employment in a facility under Section [250.005 or] 250.006 or may be a contraindication to employment, the [department shall notify--the] facility shall notify the [and] applicant or employee.

(b) The Department of Public Safety of the State of Texas shall give a person notified under Subsection (a) the opportunity to be heard concerning the accuracy of the criminal history record

information and shall notify the facility if inaccurate information is discovered. [~~The notification shall state that the finding of a criminal conviction that may bar employment is a preliminary finding and that the person has the right to object to the accuracy of the report and to object to the finding that the crime is one that bars employment under Section 250.005 or 250.006. If a crime is one that requires the consideration of mitigating factors under Section 250.006, the notification shall also state that the person has the right to submit documentation concerning the misdemeanor classification of the offense, the age of the person when the offense was committed, rehabilitation including employment history in a facility, or mitigating circumstances when the offense was committed. The right to request removal of the bar to employment does not extend to any finding by a court involving abuse, neglect, or mistreatment of a consumer of a facility.~~

[~~(c) The notification shall state:~~

[~~(1) that the person may submit a written request, not later than the 20th day after the date the notification is received, for an administrative review of the criminal history report;~~

[~~(2) the name of the office, including its address, to which the request must be submitted; and~~

[~~(3) that the failure to request an administrative review will cause the department to designate the person as "unemployable" in the registry, if the person is an applicant for a nurse aide position, and to bar the person from employment in any facility.~~

Sec. 250.006 [250.005]. CONVICTIONS BARRING EMPLOYMENT. [(a)] A person convicted of an offense listed in this section may not be employed in a position the duties of which involve direct contact with a consumer in a facility:

(1) an offense under Chapter 19, Penal Code (criminal homicide);

(2) an offense under Chapter 20, Penal Code (kidnapping and false imprisonment);

(3) an offense under Section 21.11, Penal Code (indecency with a child);

(4) an offense under Section 25.031, Penal Code (agreement to abduct from custody);

(5) [an offense under Section 25.06, Penal Code (solicitation of a child);

[(6)] an offense under Section 25.08 [25.11], Penal Code (sale or purchase of a child);

(6) [(7)] an offense under Section 28.02, Penal Code (arson);

(7) [(8)] an offense under Section 29.02, Penal Code (robbery); or

(8) [(9)] an offense under Section 29.03, Penal Code

Sec. 250.007. RECORDS PRIVILEGED. (a) The criminal history

1 records are for the exclusive use of the regulatory agency,
2 [department and] the requesting facility, the private agency on
3 behalf of the requesting facility, and the applicant or employee
4 who is the subject of the records.
5 (b) All criminal records and reports and the information
6 they contain that are received by the regulatory agency or private
7 agency for the purpose of being forwarded to the requesting
8 facility [department] are privileged information [and are for the
9 exclusive use of the department].
10 (c) The criminal records and reports and the information
11 they contain may not be released or otherwise disclosed to any
12 person or agency except on court order or with the written consent
13 of the person being investigated.
14 Sec. 250.008. CRIMINAL PENALTY. (a) A person commits an
15 offense if the person releases or otherwise discloses any
16 information received under this chapter except as prescribed by
17 Section 250.007(b) or (c).
18 (b) An offense under this section is a Class A misdemeanor.
19 Sec. 250.009. CIVIL LIABILITY. (a) A facility or an
20 officer or employee of a facility is not civilly liable for failure
21 to comply with this chapter if the facility makes a good faith
22 effort to comply.
23 (b) A regulatory agency is not civilly liable to a person
24 for criminal history record information forwarded to a requesting
25 facility in accordance with this chapter.
26 SECTION 2. The importance of this legislation and the
27 crowded condition of the calendars in both houses create an

emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

President of the Senate

Speaker of the House

I certify that H.B. No. 2704 was passed by the House on May 11, 1995, by the following vote: Yeas 134, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2704 was passed by the Senate on May 27, 1995, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

CHAPTER 60. CRIMINAL HISTORY RECORD SYSTEM

Art. 60.01. Definitions. In this chapter:

(1) "Arrest charge code" means a numeric code assigned to each offense category to be designated by the department.

(2) "Centralized criminal history record information system" means the enhanced computerized criminal history system managed by the Texas Department of Criminal Justice.

(3) "Computerized criminal history" means the data base containing arrest, disposition, and other criminal history maintained by the Department of Public Safety.

(4) "Council" means the Criminal Justice Policy Council.

(5) "Disposition" means an action that results in the termination, transfer to another jurisdiction, or indeterminate suspension of the prosecution of a criminal charge.

(6) "Incident number" means a unique number assigned to a specific person during a specific arrest.

(7) "Release" means the termination of jurisdiction over an individual by the criminal justice system.

(8) "State identification number" means a unique number assigned by the department to each person whose name appears in the centralized criminal history record information system.

(9) "Uniform incident fingerprint card" means a multiple part form containing a unique incident number with space for information relating to the charge or charges for which a person is being arrested, the person's fingerprints, and other information relevant to the arrest.

Art. 60.02. Information systems. (a) The Texas Department of Criminal Justice is responsible for recording data and establishing a data base for a centralized criminal history record information system. The council shall provide advice for the timely and effective implementation of this article.

(b) The Department of Public Safety is responsible, with cooperation from the council, for recording data and maintaining a data base for a computerized criminal history system that serves as the record creation point for criminal history information maintained by the state.

(c) The computerized criminal history system and the centralized criminal history record information system shall be established and maintained to supply the state with systems:

(1) that provide law enforcement officers with an accurate criminal history record depository;

(2) that provide criminal justice system agencies with an accurate criminal history record depository for operational decision making;

(3) from which accurate criminal justice system modeling can be conducted;

(4) that improve the quality of data used to conduct impact analyses of proposed legislative changes in the criminal justice system; and

(5) that improve the ability of interested parties to analyze the functioning of the criminal justice system.

(d) The data bases must contain the information required by this chapter.

(e) The Department of Public Safety has the sole responsibility for designating the state identification number for each person whose name appears in each data base.

(f) The Texas Department of Criminal Justice is responsible for the operation and maintenance of the centralized criminal history record information system. Data received by the Texas Department of Criminal Justice that is required by the department for the computerized criminal history record information system shall be reported to the Department of Public Safety not later than the seventh day after the date on which the Texas Department of Criminal Justice receives the data.

(g) The Department of Public Safety is responsible for the operation of the computerized criminal history system and shall develop the necessary

interfaces in the system to accommodate inquiries from a statewide automated fingerprint information system, if such a system is implemented by the department.

(h) Whenever possible, the reporting of information relating to dispositions and subsequent offender processing data shall be conducted electronically.

(i) The Department of Public Safety and the Texas Department of Criminal Justice, with advice from the council, shall develop biennial plans to improve the reporting and accuracy of the computerized criminal history system and the centralized criminal history record information system and to develop and maintain monitoring systems capable of identifying missing information.

(j) At least once during each five-year period, the Texas Department of Criminal Justice, with advice from the council, shall examine the records and operations of the centralized criminal history record information system and of the computerized criminal history system to ensure the accuracy of information in the systems. The Texas Department of Criminal Justice may examine the public records of the agencies required to report information to the Department of Public Safety or the Texas Department of Criminal Justice. The Texas Department of Criminal Justice shall submit to the legislature a report that summarizes the findings of each examination and contains recommendations for improving the systems.

Art. 60.03. Interagency cooperation; confidentiality. (a) Each agency listed in Article 60.02(a) of this code shall provide access to the agency's criminal history record information system to other criminal justice agencies, including the council. The access granted by this subsection does not grant an agency or the council the right to add, delete, or alter data maintained by another agency.

(b) Neither a criminal justice agency nor the council may disclose to the public information in an individual's criminal history record if the record is protected by state or federal law or regulation.

Art. 60.04. Compatibility of data. (a) Data supplied to the computerized criminal history and the centralized criminal history record information systems must be compatible with the systems and must contain both incident numbers and state identification numbers.

(b) A discrete submission of information under any article of this chapter must contain, in conjunction with information required, the defendant's name and state identification number.

Art. 60.05. Types of information collected. (a) Together the computerized criminal history and the centralized criminal history record information systems must contain but are not limited to the following types of information for each arrest for a felony or a misdemeanor not punishable by fine only:

(1) information relating to offenders;

(2) information relating to arrests;

(3) information relating to prosecutions;

(4) information relating to the disposition of cases by courts;

(5) information relating to sentencing; and

(6) information relating to the handling of offenders received by a correctional agency, facility, or other institution.

(b) Information relating to an offender must include:

(1) the offender's name, including other names by which the offender is known;

(2) the offender's date of birth;

(3) the offender's sex; and

(4) the offender's state identification number.

(c) Information relating to an arrest must include:

(1) the name of the offender and the offender's state identification number, if known;

(2) the name of the arresting agency;

(3) the arrest charge by name, arrest charge code, and incident number;

(4) the level of the arrest charge or degree of offense charged;

(5) the date of the arrest;

(6) the exact disposition of the case by a law enforcement agency following the arrest; and

(7) the date of disposition of the case by the law enforcement agency.

(d) Information relating to a prosecution must include:

(1) each charged offense by name, arrest charge code, and incident number;

(2) the level of the offense charged or the degree of the offense charged for each offense in Subdivision (1) of this subsection; and

(3) if the case was disposed of by the prosecutor, the nature and date of the disposition and each charged offense disposed of, by name, arrest charge code, and incident number.

(e) Information relating to the disposition of a case must include:

(1) the final pleading to each charged offense and the level of the offense;

(2) a listing of charged offenses disposed of by the court and:

(A) the date of disposition; and

(B) a listing of each offense and the arrest charge code, name, and incident number;

(3) a listing of offenses for which the defendant was convicted by the arrest charge code, name, and incident number; and

(4) the date of conviction.

(f) Information relating to sentencing must include for each sentence:

(1) the sentencing date;

(2) the sentence for each offense by name, arrest charge code, and incident number;

(3) if the defendant was sentenced to imprisonment:

(A) the place of imprisonment;

(B) the length of sentence for each offense; and

(C) if multiple sentences were ordered, whether they were ordered to be served consecutively or concurrently;

(4) if the defendant was sentenced to a fine, the amount of the fine;

(5) if a sentence other than fine or imprisonment was ordered, a description of the sentence ordered;

(6) if court costs were ordered and if so the amount of the costs; and

(7) if fees, costs, and similar monetary penalties other than those described by Subdivisions (4) and (6) of this subsection were ordered, the

amount for each.

(g) Sentencing information must also include the following information about each probation or other alternative to confinement ordered:

(1) each conviction for which sentence was ordered but was probated, suspended, or otherwise not imposed, by name, arrest charge code, and incident number;

(2) whether a portion of a fine or other cost was probated or otherwise not imposed and if so:

(A) for each offense, the amount of the fine that was not imposed; and

(B) for each offense, the amount of the court costs or other costs or fees that was not imposed; and

(3) if a sentence or portion of a sentence of imprisonment was not imposed:

(A) the offense, the sentence, and the amount of the sentence not imposed; and

(B) a statement of whether a return to confinement or other imprisonment was a condition of probation or an alternative sentence.

(h) Information relating to the handling of offenders must include the following information about each institutionalization, confinement, or execution of an offender:

(1) the date of the institutionalization or confinement;

(2) if the defendant was sentenced to death:

(A) the scheduled date of execution;

(B) if the defendant was executed, the date of execution; and

(C) if the death sentence was commuted, the sentence to which the sentence of death was commuted and the date of commutation;

(3) the date the defendant was released from institutionalization or confinement and whether the release was a discharge or a release on parole or mandatory supervision; and

(4) if the offender is released on parole or mandatory supervision:

(A) the offense for which the offender was convicted by name, arrest charge code, and incident number;

(B) the latest possible expiration date of the sentence; and

(C) the earliest possible expiration date of the sentence.

(i) Data elements not needed for the functioning of the computerized criminal history system shall be maintained in the centralized criminal history record information system.

Art. 60.06. Duties of agencies. (a) Each criminal justice agency shall:

(1) compile and maintain records needed for reporting data required by the Texas Department of Criminal Justice and the Department of Public Safety;

(2) transmit to the Texas Department of Criminal Justice and the Department of Public Safety, when and in the manner the Texas Department of Criminal Justice and the Department of Public Safety direct, all data required by the Texas Department of Criminal Justice and the Department of Public Safety, other than reports concerning the identity of a juvenile offender or the offender's parents;

(3) give the Texas Department of Criminal Justice or its accredited agent access to the agency for the purpose of inspection to determine the

completeness and accuracy of data reported; and

(4) cooperate with the Department of Public Safety and the Texas Department of Criminal Justice so that the Department of Public Safety and the Texas Department of Criminal Justice may properly perform their duties under this chapter.

(b) Information on an individual that consists of an identifiable description and notation of an arrest, detention, indictment, information, or other formal criminal charge and a disposition of the charge, including sentencing, correctional supervision, and release that is collected and compiled by the Department of Public Safety and the Texas Department of Criminal Justice from criminal justice agencies and maintained in a central location is not subject to public disclosure except as authorized by federal or state law or regulation.

(c) Subsection (b) of this section does not apply to a document maintained by a criminal justice agency that is the source of information collected by the Texas Department of Criminal Justice. Each criminal justice agency shall retain documents described by this subsection.

(d) An official of an agency may not intentionally conceal or destroy any record with intent to violate this section.

(e) The duties imposed on a criminal justice agency under this article are also imposed on district court and county court clerks.

Art. 60.07. Uniform incident fingerprint card. (a) The Department of Public Safety, in consultation with the council, shall design, print, and distribute to each law enforcement agency in the state a uniform incident fingerprint card.

(b) The incident card must:

(1) be serially numbered with an incident number in such a manner that the individual incident of arrest may be readily ascertained; and

(2) be a multiple part form that can be transmitted with the offender through the criminal justice process and that allows each agency to report required data to the department or the council.

Art. 60.08. Reporting. (a) The Texas Department of Criminal Justice shall, by rule, develop reporting procedures that ensure that the offender processing data is reported from the time a defendant is convicted until the time a defendant is released.

(b) The arresting agency shall prepare a uniform incident fingerprint card and initiate the reporting process when an individual is arrested for a felony or a misdemeanor not punishable by fine only.

(c) The clerk of the court exercising jurisdiction over a case shall report the disposition of the case to the council.

(d) Information or data required by this chapter to be reported to the Texas Department of Criminal Justice or the Department of Public Safety shall be reported promptly but not later than the 30th day after the date on which the information or data is received by the individual responsible for reporting it except in the case of an arrest. An arrest shall be reported to the Texas Department of Criminal Justice or the Department of Public Safety not later than the seventh day after the date of the arrest.

Art. 60.09. Local data advisory boards. (a) The commissioners court of each county may create local data advisory boards to, among other duties:

(1) analyze the structure of local automated and manual data systems to identify redundant data entry and data storage;

(2) develop recommendations for the commissioners to improve the local data systems;

(3) develop recommendations, when appropriate, for the effective electronic transfer of required data from local agencies to state agencies; and

(4) any related duties to be determined by the commissioners court.

(b) Local officials responsible for collecting, storing, reporting, and using data may be appointed to the local data advisory board.

(c) The council and the Department of Public Safety shall, to the extent that resources allow, provide technical assistance and advice on the request of the local data advisory board.

Texas Human Resources Code
Chapter 111
Title 110A
Public Offices, etc.

§ 111.058. Criminal History Record Information

The commission may obtain criminal history record information from the Board of Pardons and Paroles, Texas Department of Corrections, and the Texas Department of Public Safety if the records relate to an applicant for rehabilitation services or to a client of the agency. The Board of Pardons and Paroles, Texas Department of Corrections, and the Texas Department of Public Safety upon request shall supply the commission criminal history record information applying to applicants for rehabilitation services or clients of the commission. The commission shall treat all criminal history record information as privileged and confidential and for commission use only.

Added by Acts 1979, 66th Leg., p. 2435, ch. 842, art. 2, § 7, eff. Sept. 1, 1979.

Texas Revised Civil Statutes Annotated

Art. 6252-13c. Eligibility of persons with criminal backgrounds for certain occupations, professions, and licenses

Section 1. The definitions contained in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) shall apply to this Act.

Sec. 2. This Act shall not apply to the Supreme Court of Texas or to persons licensed or seeking to be licensed under its authority on behalf of the judicial department of government or to any person who seeks to become or is a peace officer as defined in Article 2.12, Code of Criminal Procedure, 1965.

Sec. 3. All agencies of this state and its political subdivisions with the duty and responsibility of licensing and regulating members of particular trades, occupations, businesses, vocations, or professions shall have the authority to obtain from the Texas Department of Public Safety or from a local law enforcement agency the record of any conviction of any person applying for or holding a license from the requesting agency.

Sec. 4. (a) A licensing authority may suspend or revoke an existing valid license, disqualify a person from receiving a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation.

(b) In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

(c) In addition to the factors that may be considered under Subsection (b) of this section, the licensing authority, in determining the present fitness of a person who has been convicted of a crime, shall consider the following evidence:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release;

(6) other evidence of the person's present fitness, including letters of recommendation from: prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person; and

(7) it shall be the responsibility of the applicant to the extent possible to secure and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required under this Act; the applicant shall also furnish proof in such form as may be required by the licensing authority that he or she has maintained a record of steady employment and has supported his or her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

(d) Proceedings held before a state licensing authority to establish factors contained in this section are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252–13a, Vernon's Texas Civil Statutes).

(e) Upon a licensee's felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision, his license shall be revoked.

Added by Acts 1981, 67th Leg., p. 694, ch. 267, § 1, eff. Sept. 1, 1981.

Art. 6252–13d. Suspension, revocation, or denial of license to persons with criminal backgrounds; guidelines and application of law

Section 1. [Adds art. 6252–13c]

Sec. 2. If a licensing authority suspends or revokes a valid license or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of a crime and the relationship of the crime to the license, the licensing authority shall notify the person in writing:

(1) of the reasons for the suspension, revocation, denial, or disqualification;

(2) of the review procedure provided by Section 3 of this Act; and

(3) of the earliest date that the person may appeal.

Sec. 3. (a) A person whose license has been suspended or revoked or who has been denied a license or the opportunity to be examined for a license by a licensing authority, who has exhausted administrative appeals, may file an action in a district court of the county in which the licensing authority is located for review of the evidence presented to the licensing authority and its decision.

(b) The person must begin the judicial review by filing a petition with the court within 30 days after the licensing authority's decision is final and appealable.

Sec. 4. (a) Each licensing authority, shall issue within six months after the effective date of this Act guidelines relating to the actual practice of the authority in carrying out Section 1 of this Act. Amendments to the guidelines, if any, shall be issued annually. These guidelines shall state the reasons particular crimes are considered to relate to particular licenses and any other criteria that affect the decisions of the authority.

(b) The guidelines required by Subsection (a) of this section and issued by state licensing authorities shall be filed with the office of the secretary of state for publication in the Texas Register. Local and county licensing authorities shall post their guidelines at the county courthouse or publish them in a newspaper of countywide circulation.

Sec. 5. This Act shall not apply to those persons licensed by the Texas State Board of Medical Examiners, State Board of Pharmacy, State Board of Dental Examiners, or The Veterinary Licensing Act (Article 7465a, Vernon's Texas Civil Statutes), and who have been convicted of a felony under the Texas Controlled Substances Act (Article 4476–15, Vernon's Texas Civil Statutes) or the Texas Dangerous Drug Act (Article 4476–14, Vernon's Texas Civil Statutes).

Acts 1981, 67th Leg., p. 695, ch. 267, §§ 2 to 5, eff. Sept. 1, 1981.

Open Records Act

Art. 6252-17a. Access by public to information in custody of governmental agencies and bodies

Declaration of policy

Section 1. Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the State of Texas that all persons are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. To that end, the provisions of this Act shall be liberally construed with the view of carrying out the above declaration of public policy.

Definitions

Sec. 2. In this Act:

(1) "Governmental body" means:

(A) any board, commission, department, committee, institution, agency, or office within the executive or legislative branch of the state government, or which is created by either the executive or legislative branch of the state government, and which is under the direction of one or more elected or appointed members;

(B) the commissioners court of each county and the city council or governing body of each city in the state;

(C) every deliberative body having rulemaking or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city;

(D) the board of trustees of every school district, and every county board of school trustees and county board of education;

(E) the governing board of every special district;

(F) the part, section, or portion of every organization, corporation, commission, committee, institution, or agency which is supported in whole or in part by public funds, or which expends public funds. Public funds as used herein shall mean funds of the State of Texas or any governmental subdivision thereof;

(G) the Judiciary is not included within this definition.

(2) "Public records" means the portion of all documents, writings, letters, memoranda, or other written, printed, typed, copied, or developed materials which contains public information.

Public information

Sec. 3.

Text of subsec. (a) effective until January 1, 1986

(a) All information collected, assembled, or maintained by governmental bodies pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of any governmental body, with the following exceptions only:

(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;

(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

(4) information which, if released, would give advantage to competitors or bidders;

(5) information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;

(6) drafts and working papers involved in the preparation of proposed legislation;

(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas [1] are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

(8) records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(9) private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;

(10) trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision;

(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency;

(12) information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act; [2]

(13) geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency;

(14) student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, or that student's parent, legal guardian, or spouse;

(15) birth and death records maintained by the Bureau of Vital Statistics in the State of Texas; [3]

(16) the audit working papers of the State Auditor;

(17) the home addresses and home telephone numbers of peace officers as defined by Article 2.12, Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code; and

(18) information contained on or derived from triplicate prescription forms filed with the Department of Public Safety pursuant to Section 3.09 of the Texas Controlled Substances Act, as amended (Article 4476–15, Vernon's Texas Civil Statutes).

Text of subsec. (a) effective January 1, 1986

(a) All information collected, assembled, or maintained by governmental bodies pursuant to law or ordinance or in connection with the transaction of

official business is public information and available to the public during normal business hours of any governmental body, with the following exceptions only:

(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;

(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

(4) information which, if released, would give advantage to competitors or bidders;

(5) information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;

(6) drafts and working papers involved in the preparation of proposed legislation;

(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas [1] are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

(8) records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(9) private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;

(10) trade secrets and commercial or financial information obtained from a person and privileged or confidential bv statute or judicial decision;

(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency;

(12) information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act; [2]

(13) geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency;

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(15) birth and death records maintained by the Bureau of Vital Statistics in the State of Texas; [3]

(16) the audit working papers of the State Auditor; and

(17) the home addresses and home telephone numbers of peace officers as defined by Article 2.12, Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code.

(b) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from individual members or committees of the legislature to use for legislative purposes.

(c) The custodian of the records may in any instance within his discretion make public any information contained within Section 3, Subsection (a) 6, 9, 11, and 15.

(d) It is not intended that the custodian of public records may be called upon to perform general research within the reference and research archives and holdings of state libraries.

Application for public information

Sec. 4. On application for public information to the custodian of information in a governmental body by any person, the custodian shall promptly produce such information for inspection or duplication, or both, in the offices of the governmental body. If the information is in active use or in storage and, therefore, not available at the time a person asks to examine it, the custodian shall certify this fact in writing to the applicant and set a date and hour within a reasonable time when the record will be available for the exercise of the right given by this Act. Nothing in this Act shall authorize any person to remove original copies of public records from the offices of any governmental body without the written permission of the custodian of the records.

Custodian of public records described

Sec. 5. (a) The chief administrative officer of the governmental body shall be the custodian of public records, and the custodian shall be responsible for the preservation and care of the public records of the governmental body. It shall be the duty of the custodian of public records, subject to penalties provided in this Act, to see that the public records are made available for public inspection and copying; that the records are carefully protected and preserved from deterioration, alteration, mutilation, loss, removal, or destruction; and that public records are repaired, renovated, or rebound when necessary to preserve them properly. When records are no longer currently in use, it shall be within the discretion of the agency to determine a period of time for which said records will be preserved.

(b) Neither the custodian nor his agent who controls the use of public records shall make any inquiry of any person who applies for inspection or copying of public records beyond the purpose of establishing proper identification and the public records being requested; and the custodian or his agent shall give, grant, and extend to the person requesting public records all reasonable comfort and facility for the full exercise of the right granted by this Act.

Specific information which is public

Sec. 6. Without limiting the meaning of other sections of this Act, the following categories of information are specifically made public information:

(1) reports, audits, evaluations, and investigations made of, for, or by, governmental bodies upon completion;

(2) the names, sex, ethnicity, salaries, title, and dates of employment of all employees and officers of governmental bodies;

(3) information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by governmental bodies, not otherwise made confidential by law;

(4) the names of every official and the final record of voting on all proceedings in governmental bodies;

(5) all working papers, research material, and information used to make estimates of the need for, or expenditure of, public funds or taxes by any governmental body, upon completion of such estimates;

(6) the name, place of business, and the name of the city to which local sales and use taxes are credited, if any, for the named person, of persons reporting or paying sales and use taxes under the Limited Sales, Excise, and Use Tax Act; [1]

(7) description of an agency's central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(8) statements of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(9) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(10) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency;

(11) each amendment, revisions, or repeal of 7, 8, 9 and 10 above;

(12) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(13) statements of policy and interpretations which have been adopted by the agency;

(14) administrative staff manuals and instructions to staff that affect a member of the public;

(15) information currently regarded by agency policy as open to the public.

[1] V.T.C.A. Tax Code, § 151.001 et seq.

Attorney general opinions

Sec. 7. (a) If a governmental body receives a written request for information which it considers within one of the exceptions stated in Section 3 of this Act, but there has been no previous determination that it falls within one of the exceptions, the governmental body within a reasonable time, no later than ten days, after receiving a written request must request a decision from the attorney

general to determine whether the information is within that exception. If a decision is not so requested, the information shall be presumed to be public information.

(b) The attorney general shall forthwith render a decision, consistent with standards of due process, to determine whether the requested information is a public record or within one of the above stated exceptions. The specific information requested shall be supplied to the attorney general but shall not be disclosed until a final determination has been made. The attorney general shall issue a written opinion based upon the determination made on the request.

Writ of mandamus

Sec. 8. If a governmental body refuses to request an attorney general's decision as provided in this Act, or to supply public information or information which the attorney general has determined to be a public record, the person requesting the information or the attorney general may seek a writ of mandamus compelling the governmental body to make the information available for public inspection.

Cost of copies of public records

Sec. 9. (a) The cost to any person requesting noncertified photographic reproductions of public records comprised of pages up to legal size shall not be excessive. The State Board of Control shall from time to time determine the actual cost of standard size reproductions and shall periodically publish these cost figures for use by agencies in determining charges to be made pursuant to this Act.

(b) Charges made for access to public records comprised in any form other than up to standard sized pages or in computer record banks, microfilm records, or other similar record keeping systems, shall be set upon consultation between the custodian of the records and the State Board of Control, giving due consideration to the expenses involved in providing the public records making every effort to match the charges with the actual cost of providing the records.

(c) It shall be the policy of all governmental bodies to provide suitable copies of all public records within a reasonable period of time after the date copies were requested. Every governmental body is hereby instructed to make reasonably efficient use of each page of public records so as not to cause excessive costs for the reproduction of public records.

(d) The charges for copies made in the district clerk's office and the county clerk's office shall be as otherwise provided by law.

(e) No charge shall be made for one copy of any public record requested from state agencies by members of the legislature in performance of their duties.

(f) The charges for copies made by the various municipal court clerks of the various cities and towns of this state shall be as otherwise provided by ordinance.

Distribution of confidential information prohibited

Sec. 10. (a) Information deemed confidential under the terms of this Act shall not be distributed.

(b) A custodian of public records, or his agent, commits an offense if, with criminal negligence, he or his agent fails or refuses to give access to, or to permit or provide copying of, public records to any person upon request as provided in this Act.

(c) It is an affirmative defense to prosecution under Subsection (b) of this section that the custodian of public records reasonably believed that the public records sought were not required to be made available to the public and that he:

(1) acted in reasonable reliance upon a court order or a written interpretation of this Act contained in an opinion of a court of record or of the attorney general issued under Section 7 of this Act;

(2) requested a decision from the attorney general in accordance with Section 7 of this Act, and that such decision is pending; or

(3) within three working days of the receipt of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with such decision of the attorney general, and that such cause is pending.

(d) It is an affirmative defense to prosecution under Subsection (b) of this section that the defendant is the agent of a custodian of public records and that the agent reasonably relied on the written instruction of the custodian of public records not to disclose the public records requested.

(e) Any person who violates Section 10(a) or 10(b) of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by confinement in the county jail not to exceed six (6) months or fined in an amount not to exceed $1,000, or by both such fine and confinement. A violation under this section constitutes official misconduct.

Bond for payment of costs for preparation of public records or cash prepayment

Sec. 11. A bond for payment of costs for the preparation of such public records, or a prepayment in cash of the anticipated costs for the preparation of such records, may be required by the head of the department or agency as a condition precedent to the preparation of such record where the record is unduly costly and its reproduction would cause undue hardship to the department or agency if the costs were not paid.

Penalties

Sec. 12. Any person who wilfully destroys, mutilates, removes without permission as provided herein, or alters public records shall be guilty of a misdemeanor and upon conviction shall be fined not less than $25 nor more than $4,000, or confined in the county jail not less than three days nor more than three months, or both such fine and confinement.

Procedures for inspection of public records

Sec. 13. Each governmental body may promulgate reasonable rules of procedure by which public records may be inspected efficiently, safely, and without delay.

Interpretation of this Act

Sec. 14. (a) This Act does not prohibit any governmental body from voluntarily making part or all of its records available to the public, unless expressly prohibited by law; provided that such records shall then be available to any person.

(b) This Act does not authorize the withholding of information or limit the availability of public records to the public, except as expressly so provided.

(c) This Act does not give authority to withhold information from individual members or committees of the Legislature of the State of Texas to use for legislative purposes.

(d) This Act shall be liberally construed in favor of the granting of any request for information.

(e) Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93–380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

Severability

Sec. 15. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Acts 1973, 63rd Leg., p. 1112, ch. 424, eff. June 14, 1973. Sec. 14(e) added by Acts 1975, 64th Leg., p. 809, ch. 314, § 1, eff. May 27, 1975; Sec. 3(a) amended by Acts 1979, 66th Leg., p. 807, ch. 366, § 1, eff. June 6, 1979; Sec. 10 amended by Acts 1979, 66th Leg., p. 906, ch. 414, § 1, eff. Aug. 27, 1979; Sec. 3(a) amended by Acts 1981, 67th Leg., p. 2317, ch. 570, § 6, eff. Jan. 1, 1982.

RULES ON FILE WITH SECRETARY OF STATE

Issued By The
Texas Department of Public Safety
Austin, Texas

AUGUST, 1982

TEXAS DEPARTMENT OF PUBLIC SAFETY
Identification and Criminal Records

Review of Personal Criminal History Record

§27.1 Right of Review.

(a) It is the policy of the Department of Public Safety that an individual with a criminal history record on file with this Department has the right to access and review this record.

(b) The procedure to obtain this information for individuals appearing at Department of Public Safety headquarters in Austin, Texas, is as follows:

(1) Any individual requesting access to his criminal history record must submit a written request to the Identification and Criminal Records Division, Texas Department of Public Safety, Box 4143, Austin, Texas 78765.

(2) The individual will present the request to the Chief, Identification and Criminal Records Division, or his designee, Texas Department of Public Safety, 5805 North Lamar Boulevard, Austin, Texas.

(3) The individual will be fingerprinted to establish identification. A search will be conducted and if a record is located the arrest history is shown to the individual for review.

(4) The individual requesting review of said record may make notes of the criminal history record. If the individual feels that the record is incorrect or incomplete, it is the individual's responsibility to contact the agency submitting the record in question. The individual may, for the proper fee, obtain a copy of that portion of the record if it is determined that there is reason to challenge. The individual will be advised that the record is for review and challenge only. It is the responsibility of the agency submitting the record to determine the validity of said record and make corrections or deletions that may be required. Official notification to the Department must be made by the agency requesting any corrections or deletions. Upon receipt of such correction or deletion request from the reporting agency, the Department will immediately correct or change the record accordingly.

(c) The procedure to obtain this information in the event the individual is unable to appear personally at the Department of Public Safety headquarters in Austin, Texas, is as follows:

(1) Any individual requesting access to his criminal history record must submit a written request for same to the Identification and Criminal Records Division, Texas Department of Public Safety, Box 4143, Austin, Texas 78765.

(2) The individual must be fingerprinted by a criminal justice agency and said agency must identify the fingerprint card of the individual fingerprinted with the proper identifying data as required on the fingerprint card.

(3) The written request and the fingerprint card will be mailed by the participating criminal justice agency to the Department of Public Safety.

(4) The criminal history file will be searched by the Department and if a positive fingerprint identification is established on an existing criminal history record, a printout of said record will be obtained from the file.

(5) The printout of said criminal history record, the submitted fingerprint card, and the original letter will be returned to the participating criminal justice agency. If no arrest record is found in the file, a notation of such fact will be made on the fingerprint card and the fingerprint card and the original letter will be returned to the participating criminal justice agen-

cy. In either event, the Department will mail a letter to the requesting individual advising that no record was found or that a copy of the criminal history record, if any, has been mailed to the participating criminal justice agency.

(6) It will then be the responsibility of the individual requesting said record to personally call for review of such record at that participating criminal justice agency. The participating criminal justice agency must determine that the person reviewing the criminal history record is the same person that was fingerprinted by that agency for the purpose of record review and challenge.

(7) The individual requesting review of said record may make notes of the criminal history record. After reviewing the said record and if the individual feels that the record is incorrect or incomplete, it is the individual's responsibility to contact the agency which originally submitted the record in question. The individual may, for the proper fee, obtain a copy of that portion of the record if it is determined that there is reason to challenge. The individual will be advised that the record is for review and challenge only. It then will be the responsibility of the agency originally submitting the record to determine the validity of said record and make any corrections or deletions that may be required. Official notification to the Department must be submitted by the agency requesting any corrections or deletions. Upon receipt of such correction or deletion request from the reporting agency, the Department of Public Safety will immediately correct or change the record accordingly.

(8) At the conclusion of the review, the participating criminal justice agency will destroy all remaining papers concerning this inquiry.

* * *

TEXAS

THE ATTORNEY GENERAL OF TEXAS

JOHN L. HILL
ATTORNEY GENERAL

AUSTIN, TEXAS 78711

May 14, 1976

The Honorable N. Alex Bickley
City Attorney
City Hall
Dallas, Texas 75201

The Honorable H. C. Perry
Chief of Police
City of Arlington
Box 231
Arlington, Texas 76010

The Hon. Lloyd W. Perkins
City Attorney
P. O. Box 1106
Sherman, Texas 75090

The Honorable Hank Anderson
County Attorney
Court House
Wichita Falls, Texas 76301

The Honorable Wilson E. Speir
Director, Texas Department of
Public Safety
Box 4087
Austin, Texas 78773

Open Records Decision No. 127

Re: Applicability of section 3(a)(8) (the law enforcement exception) of the Open Records Act to various records.

The Hon. Firmin Hickey, Jr.
Bellaire City Attorney
729 Bankers Mortgage Bldg.
708 Main Street
Houston, Texas 77002

The Hon. John C. Ross, Jr.
City Attorney
Room 203, City-County Bldg.
El Paso, Texas 79901

Gentlemen:

Each of you has requested our decision on whether information is excepted from required public disclosure under section 3(a)(8) of the Open Records Act, article 6252-17a, V.T.C.S. This exception is applicable to

> records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and

> notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement.

We have deferred decisions in those cases where an arguable claim was made that the requested information fell within section 3(a)(8), because the constitutionality of this section has been at issue in litigation.

In Houston Chronicle Publishing Company v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. -- Houston [14th Dist.] 1975, writ ref'd n.r.e. at 19 Tex. Sup. J. 300, May 1, 1976), the court held section 3(a)(8) constitutional, dealt with the scope of the exception in relation to the constitutional right of access to information concerning crime in the community, and decided the applicability of the exception to specific records and information held by the Houston Police Department.

The court gave detailed descriptions of various records sought and held that the police blotter, show-up sheet, and arrest sheet are public records available to the press and public. The court held that the offense report and personal history and arrest record ("rap sheet") are excepted from required public disclosure by section 3(a)(8), but also held that the public and press have a constitutionally protected right to access to information maintained by law enforcement agencies relating to crime and criminal activities and that this right extends affirmatively to the information contained on the first page of the offense report as described in the opinion.

In its per curiam opinion refusing the application for writ of error in this case, the Texas Supreme Court said:

> We agree with the opinion of the court below that neither the Texas Open Records Act nor the United States or Texas Constitutions requires disclosure of the complete records sought by the Houston Chronicle, and we therefore refuse the Chronicle's application for writ of error, no reversible error. Since the City of Houston has not filed an application for writ of error complaining of the court of civil appeals' judgment, it is the

> opinion of the majority of the court that we reserve the question as to whether the press and public have a statutory or constitutional right to obtain all of the information which the court of civil appeals has held to be public information. Houston Chronicle Publishing Co. v. City of Houston, 19 Tex. Sup. Ct. J. 300 (May 1, 1976).

While the Supreme Court's opinion indicates that a question remains as to some of the information held to be public by the Court of Civil Appeals, the opinion of the latter court is the most authoritative judicial interpretation of section 3(a)(8) of the Open Records Act available, and this office will follow that interpretation. See Attorney General Opinion H-373 (1974).

We have prepared the following summary of the decision of the Court of Civil Appeals as applied to specific records and information.

I. INFORMATION AVAILABLE TO PUBLIC

A. Police Blotter

1. Arrestee's social security number, name, alias, race, sex, age, occupation, address, police department identification number, and physical condition.
2. Name of arresting officer.
3. Date and time of arrest.
4. Booking information.
5. Charge.
6. Court in which charge is filed.
7. Details of arrest.
8. Notation of any release or transfer.
9. Bonding information.

B. Show-up Sheet (chronological listing of persons arrested during 24-hour period)

1. Arrestee's name, age, police department identification number.
2. Place of arrest.
3. Names of arresting officers.
4. Numbers for statistical purposes relating to modus operandi of those apprehended.

C. Arrest Sheet (similar chronological listing of arrests made during 24-hour period)
1. Arrestee's name, race, and age.
2. Place of arrest.
3. Names of arresting officers.
4. Offense for which suspect arrested.

D. Offense Report -- front page
1. Offense committed.
2. Location of crime.
3. Identification and description of complainant.
4. Premises involved.
5. Time of occurence.
6. Property involved.
7. Vehicle involved.
8. Description of weather.
9. Detailed description of offense.
10. Names of investigating officers.

II. INFORMATION NOT AVAILABLE TO PUBLIC

A. Offense Report -- all except front page
1. Identification and description of witnesses.
2. Synopsis of confession.
3. Officer's speculation as to suspect's guilt.
4. Officer's view of witness credibility.
5. Statements by informants.
6. Ballistics reports.
7. Fingerprint comparisons.
8. Blood and other lab tests.
9. Results of polygraph test.
10. Refusal to take polygraph test.
11. Paraffin test results.
12. Spectrographic or other investigator reports.

B. Personal History and Arrest Record
1. Identifying numbers.
2. Name, race, sex, aliases, place and date of birth and physical description with emphasis on scars and tattoos.

3. Occupation, marital status and relatives.
4. Mugshots, palm prints, fingerprints, and signature.
5. Chronological history of any arrests and disposition.

Your specific requests for decisions on the applicability of the section 3(a)(8) law enforcement records exception may now be considered in light of this decision.

Mr. Bickley of Dallas and Mr. Perry of Arlington have received requests for information on the names and addresses of burglary victims. This information is available on the first page of offense reports and is public. The requesting parties are entitled to access to these records. However, the city is not obligated to compile or extract this information if it can be made available by giving the requestor access to the records themselves. See Open Records Decision No. 87 (1975).

Mr. Perkins of Sherman has received a request for access to the original reports of driving while intoxicated offenses. The managing editor of the Sherman Democrat seeks access to the original records in order to perform his own compilation of DWI statistics. The form used for such reports is the Texas Department of Public Safety "DWI/DUID Traffic Case Report," form HP-21 (Rev. 1-72). Some of the information on the form is excepted from required public disclosure. This includes the item calling for the criminal record of the driver, the identification of witnesses, the information concerning chemical tests and results thereof, and, on the back of the form, the interview of the suspect.

The city is not required to provide access to those parts of the form containing information excepted from disclosure by section 3(a)(8).

The correspondence on this matter indicates that the requestor wishes to insure the authenticity and accuracy of the information the city has offered to compile. We believe that this problem of the method by which an agency must separate excepted information from public information appearing on the same page is an administrative problem which this office cannot resolve. Perhaps the availability of the desired information from the original blotter, show-up sheet, or arrest sheet will render the matter moot.

Mr. Anderson of Wichita Falls requests our decision concerning a request received by the sheriff from a private corporation asking for information as to "any record your department has on this individual." We understand this to be a request for a personal history and arrest record, or rap sheet, on a named individual. This information is excepted from disclosure by section 3(a)(8). Houston Chronicle Publishing Corp. v. City of Houston, 531 S.W.2d at 187-188.

Mr. Hickey requests our decision on behalf of the City of Bellaire in regard to a request received by the police department for access to the contents of the files concerning the requesting individual. We have said that the Open Records Act is a general public disclosure statute giving any member of the public access to governmental records without reference to his particular circumstances, motive or need. Open Records Decision Nos. 118 (1976), 108 (1975). The only special rights of access given by the Open Records Act are those afforded to governmental employees and to students to their own records. Secs. 3(a)(2); 3(a)(14). The individual here is afforded the same right of access by the Open Records Act that every other member of the public has to records held by the police department. However, we have said that the Open Records Act is but one means of securing information, either publicly or privately, and that the Act does not restrict a right of access based on special interest. Open Records Decision No. 106 (1975). See Attorney General Opinions H-249 (1974); H-231 (1974); Open Records Decision No. 111 (1975); No. 24 (1974); No. 18A at p. 3 (1974). In regard to access by an individual to criminal history record information maintained about him, see 42 U.S.C. § 3771(b); 28 C.F.R. §§ 20.21(g), 20.34.

The only decision we are authorized to make in this instance under section 7 of the Act is that the individual's criminal history record is excepted from required public disclosure by section 3(a)(8) of the Open Records Act. However, we note that the Act does not affect any special federal statutory right which an individual may have to information.

Mr. Ross of El Paso asks our decision on the applicability of section 3(a)(8) to information requested of the Police Department. The request is for photographs, and supplemental witness statements collected in connection with the investigation of an incident wherein a death occurred, apparently by carbon monoxide asphyxiation from a gas heater.

On the basis of the facts presented, it is our understanding that the incident investigated did not lead to any criminal charges being filed. However, the purpose of the investigation and the taking of photographs and statements of witnesses was to determine whether a crime may have occurred.

The information requested here is the type which the court in the Houston Chronicle case held to be excepted from required public disclosure, in that it consists of evidentiary matters. The court said:

> To open such material to the press and public in all cases might endanger the position of the State in criminal prosecutions by the use of such materials to the disadvantage of the prosecution. To have such materials open to the press and public in all cases might reveal the names of informants and pose the threat of intimidation of potential prosecution witnesses. Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d at 187.

Police investigations of incidents such as this death by other than natural causes are rarely closed completely, and what initially appears to be an accident may later be found to have involved a criminal act. Cases are not always closed by prosecution or a determination that no crime was involved.

The Open Records Act excepts from required public disclosure records of law enforcement agencies "that deal with the detection and investigation of crime." We do not believe that this exception was intended to be read so narrowly that it only applies to those investigative records which in fact lead to prosecution. We believe that it was also intended to protect other valid interests such as maintaining as confidential the investigative techniques and procedures used in law enforcement and insuring the privacy and safety of witnesses willing to cooperate with law enforcement officers. These interests in non-disclosure remain even though there is no prosecution in a particular case.

It is our decision that the information requested is excepted from required public disclosure by section 3(a)(8).

Mr. Bickley of Dallas has received a request for all records of the City of Dallas and the Dallas Fire Department concerning a specified fire. Mr. Bickley contends that the investigatory records concerning this fire developed and maintained by the Arson Investigation Division of the Dallas Fire Department are excepted from required public disclosure by section 3(a)(8).

The records submitted clearly deal with the detection and investigation of crime. The issue is whether the Arson Investigation Division of the Dallas Fire Department is a "law enforcement agency" witin the meaning of section 3(a)(8). This distinct division of the Dallas Fire Department is made up of peace officers. Code of Criminal Procedure, article 2.12 provides:

> The following are peace officers:
>
> . . . .
>
> (7) each member of an arson investigating unit of a city, county or the state.

The primary purpose of the arson investigating unit is the detection and investigation of violations of the penal law.

We believe that the Arson Investigation Division of the Dallas Fire Department is a law enforcement agency within the meaning of section 3(a)(8), and that this exception is applicable to certain records held by this Division.

The information submitted with Mr. Bickley's letter includes completed forms designated "Dallas Fire-Department Investigation Fire Report" and "Investigation Report," witness statements and handwritten notes by investigators concerning witnesses' statements and the conduct of the investigation.

Guided by the Court's decision in the Houston Chronicle case that the press and the public have a right of access to information concerning crime in the community and to information relating to activities of law enforcement agencies, we believe that the press and public are entitled to access to information concerning fires in the community, including those involving arson. The Investigation Reports here include the time of the occurrence, the fire department's response, the location of the fire, how and by whom it was reported, a description of the building, estimates of the value of the building and its contents, whether and to what amount the property is insured by whom, and a description of any injuries or deaths that occurred with the name and age of the victim, nature of injury, conveyance and hospital, and date and time of death, as applicable. The investigation report also includes a detailed description of the cause and origin of the fire.

We believe the public is entitled to access to this information contained in the investigation reports.

However, certain portions of the reports include the investigator's opinion and conclusions concerning the names of suspects, the possible motive for an incendiary fire, evidence found, names of witnesses and summaries of their statements, and information concerning the description, background, and possible location of any suspect. We believe that this is the type of information the disclosure of which might impede an ongoing investigation or endanger the position of the State in criminal prosecutions, and as such is excepted from required public disclosure by section 3(a)(8). Of course, if formal charges are filed against a suspect, that information is public and should be disclosed.

Colonel Speir requests our decision on whether a Texas Department of Public Safety "Hit and Run Report" is excepted from public disclosure by section 3(a)(8). The requestor asked for information concerning a specific hit and run accident. The requestor was provided with a copy of the Department's "Texas Peace Officer's Accident Report," which is specifically made public under section 47, article 6701d, V.T.C.S. The requestor's specific request for the "Hit and Run Report" was denied on the ground that it is excepted by section 3(a)(8).

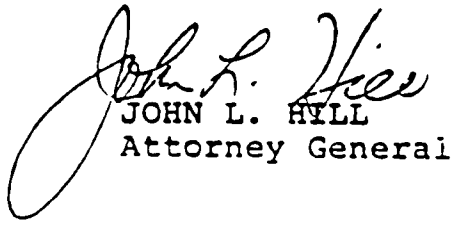
There is much duplication of information in the Accident Report and the front page of the Hit and Run Report. The only unique information in the Hit and Run Report is contained on the second page, and details the investigative steps taken in the particular case. This information on the second page is excepted from required public disclosure under section 3(a)(8) of the Open Records Act. In accordance with the Houston Chronicle decision, the front page of the report is public and should be made available.

Colonel Speir also requests our decision regarding whether a daily list of persons entering and leaving the Executive Mansion kept by the Department of Public Safety officers on duty is excepted from required public disclosure by section 3(a)(8).

The listing requested is compiled during each 24-hour period by the officer on duty on each of three shifts. It includes notations on the entry and exit of persons into and from the Mansion. The report is reviewed by the supervising sergeant and is normally disposed of by him. The Department of Public Safety officers are assigned to duty in the Executive Mansion for the purpose of providing security for the persons and property there. This listing is made in connection with this law enforcement purpose.

In Open Records Decision No. 22A (1974), we said that we believed that information which could assist an individual in simultaneously violating the law and avoiding detection is the type of information intended to be excepted from required public disclosure by section 3(a)(8) as an "internal record and notation maintained for internal use in matters relating to law enforcement." We believe that requiring disclosure of the listing and report involved here would disclose the security practices of the Department of Public Safety and could assist a person in simultaneously violating the law and avoiding detection. We believe that the requested information is excepted from required public disclosure by section 3(a)(8) of the Act.

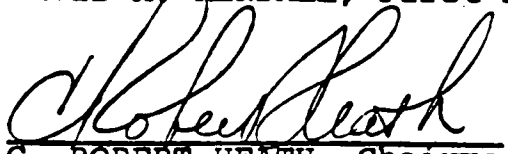
Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:

DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

jwb

TEXAS
THE ATTORNEY GENERAL
OF TEXAS

JOHN L. HILL
ATTORNEY GENERAL

AUSTIN, TEXAS 78711

September 24, 1976

The Honorable Wilson E. Speir
Director
Texas Department of Public Safety
5805 N. Lamar Boulevard
Austin, Texas 78773

Open Records Decision No.144

Re: Does the Open Records Act require disclosure of conviction information from files of Department of Public Safety.

Dear Col. Speir:

You have received a request to provide information from your files concerning convictions of persons since they were pardoned. The requestor supplied a list of approximately 650 names with a Texas Department of Corrections identification number and the date the person was pardoned.

You ask whether this information is excepted from required public disclosure by section 3(a)(8) of the Open Records Act, article 6252-17a, V.T.C.S., which excepts

> records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement.

The information requested is available from your files or from information exchange systems to which you have access in the form of personal history and arrest records or "rap sheets."

Personal history and arrest records, which may include conviction information, have been held to be excepted from required public disclosure by section 3(a)(8) of the Act.

RECEIVED
SEP 27 1976
DIRECTOR
DEPT. OF PUBLIC SAFETY

Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177, 188 (Tex. Civ. App. -- Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. Sup. 1976); Open Records Decision No. 127 (1976) at 6.

The requesting party makes clear that the request is only for information concerning convictions, and does not extend to any information concerning arrests not resulting in prosecution or conviction. He notes that the information concerning convictions is public and available in the court records throughout Texas. He states that he is "seeking them from the Department of Public Safety because it is a central point of access for the information."

We have held that the Department of Public Safety may provide criminal history record information to certain state agencies to assist them in their licensing responsibilities, subject to applicable federal law and regulations. Attorney General Opinion H-683 (1975). Current federal regulations do not restrict a law enforcement agency's dissemination of its own conviction information [28 C.F.R. § 20.21(b)(4), as amended (1975); 41 Fed. Reg. 11714, 11715 (March 19, 1976)]; however, dissemination of criminal history record information, including convictions, from Department of Justice criminal history information systems (e.g. N.C.I.C.) is not permitted. 28 C.F.R. §§ 20.30, 20.33 (1975). In our Opinion H-683 we recognized, but did not decide, the issue of whether the public nature of conviction information when held by the court clerk of a particular court is transformed by virtue of the compilation of it in a centralized and vastly more accessible form. It is not necessary to decide this question here, except to say that even though conviction information may be a matter of public record where the conviction occured, the Open Records Act does not require a law enforcement agency to search its records and notations to disclose that conviction information in response to an inquiry by a member of the public or press.

The information requested is excepted from required public disclosure by section 3(a)(8) of the Act.

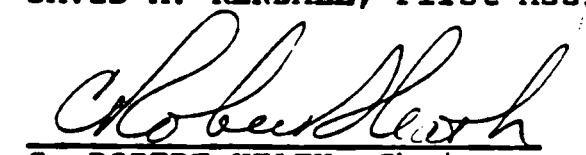
Very truly yours,

John L. Hill

JOHN L. HILL
Attorney General of Texas

APPROVED:

DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

jwb

NONCRIMINAL JUSTICE AGENCIES AUTHORIZED BY LAW TO RECEIVE CRIMINAL HISTORY RECORD INFORMATION IN TEXAS

Prepared by

Crime Records Division

Texas Department of Public Safety

Revised March 1991

STATE AGENCIES

TEXAS ADJUTANT GENERAL

Texas Government Code, Section 431.037
Authorized: All Criminal History Record Information.
Members of the state military forces or employees of the Adjutant General's Department; and applicants for enlistment or appointment in the state military forces or employment with the Adjutant General's Department.

TEXAS ALCOHOLIC BEVERAGE COMMISSION

1. Texas Alcoholic Beverage Code, Sections 25.07 and 69.07.
   Authorized: All Criminal History Record Information.
   Applicants for wine and beer retailer's permits and retail dealer's on premises licenses.

2. Vernon's Civil Statutes, Article 179d, Section 13e.
   Authorized: All Criminal History Record Information.
   Licensing of bingo game operators and employees, commercial lessors, manufacturers, distributors, and representatives.

TEXAS BOARD OF PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES

Vernon's Civil Statutes, Article 4413(29bb), Sections 3A, 15, 39, and 49.
Authorized: All Criminal History Record Information.
Licensing of private security company operators, private security guards, private investigators, alarm systems installers and private security consultants.

TEXAS BOARD OF PUBLIC ACCOUNTANCY

Vernon's Civil Statutes, Article 41a-1, Section 21B.
Authorized: All Criminal History Record Information.
Applicants for certification as certified public accountants; applicants to take the uniform CPS examination; applicants to register under Section 14 of this Act.

TEXAS DEPARTMENT OF HUMAN SERVICES

1. Human Resources Code, Section 22.006.
   Authorized: All Criminal History Record Information for selected offenses.
   Investigation of owners and employees of child care facilities, residents of registered family homes, persons providing adoptive or foster care for children, DHS employees engaged in direct protective services for children and volunteers with Big Brothers/Big Sisters of America and the "I have a dream/Houston" program.

TEXAS DEPARTMENT OF HUMAN SERVICES (on behalf of the TEXAS DEPARTMENT OF HEALTH)

Human Resources Code, Chapter 106.
Authorized: All conviction data for selected offenses.
Applicants and employees of facilities serving the elderly and disabled; and nurses aides referred under nurses aide registry program.

TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION
Vernon's Civil Statutes, Article 5547-202, Section 2.28.
Authorized: All conviction data for selected offenses.
Applicants for employment required to come in direct contact with mentally ill patients or mentally retarded clients; employees of contractors who provide residential services who are required to come in direct contact with mentally ill patients or mentally retarded clients.

TEXAS DEPARTMENT OF LABOR AND STANDARDS

1. Vernon's Civil Statutes, Article 5221a-5, Section 3(b).
   Authorized: All Criminal History Record Information.
   Licensing of labor agents.

2. Vernon's Civil Statutes, Article 8501-1, Section 12.
   Authorized: All Criminal History Record Information.
   Licensing of professional boxers and wrestlers, referees, judges, seconds, time keepers, and match makers.

TEXAS EDUCATION AGENCY
Texas Education Code, Section 13.0321.
Authorized: All Criminal History Record Information.
Applicants for teaching certificates.

TEXAS EMPLOYMENT COMMISSION
Vernon's Civil Statutes, Article 5221b-1, Section 11-E.
Authorized: All Criminal History Record Information.
Applicants for employment is a security sensitive positions.

TEXAS INSTITUTIONS OF HIGHER EDUCATION (including private institutions)
Texas Education Code, Section 51.215.
Authorized: All Criminal History Record Information.
Applicants for employment in security sensitive positions.

TEXAS OFFICE OF CONSUMER CREDIT COMMISSIONER
Vernon's Civil Statutes, Article 5069-51.17A.
Authorized: All Criminal History Record Information.
Licensing of pawn brokers and certain persons employed by or in pawn shops.

TEXAS RACING COMMISSION
Vernon's Civil Statutes, Article 179e, Sections 5.03 through 5.04.
Authorized: All Criminal History Record Information.
Licensing of persons involved with racing with pari-mutuel wagering.

TEXAS REHABILITATION COMMISSION
Human Resources Code, Section 111.058.
Authorized: All Criminal History Record Information.
Applicants for rehabilitation services and clients of the commission.

TEXAS SCHOOL FOR THE BLIND
Texas Education Code, Section ~~11.66~~ 11.064
Authorized: All Criminal History Record Information.
Applicants or employees of the school engaged in direct delivery of care to children.

TEXAS SCHOOL FOR THE DEAF
Texas Education Code, Section 11.033.
Authorized: All Criminal History Record Information for selected offenses.
Applicants and employees of TSD who provide direct care for children.

TEXAS STATE AND LOCAL LICENSING/REGULATORY AGENCIES
Vernon's Civil Statutes, Article 6252-13c, Section 3(a).
Authorized: Texas conviction data only.
Licensing of particular trades, occupations, businesses, vocations, or professions.

TEXAS STATE BOARD OF INSURANCE (acting as Receiver of failed insurance agencies)
Texas Insurance Code, Article 21,28, Section 4(i).
Authorized: All Criminal History Record Information.
To investigate any matter relating to a receivership estate.

TEXAS STATE BOARD OF LAW EXAMINERS
Texas Government Code, Section 82.029.
Authorized: All Criminal History Record Information.
Applicants to practice law.

TEXAS STATE BOARD OF MEDICAL EXAMINERS
Vernon's Civil Statutes, Article 4495b, Section 2.09(h).
Authorized: All Criminal History Record Information.
Licensing of medical doctors and physicians.

TEXAS STRUCTURAL PEST CONTROL BOARD
Vernon's Civil Statutes, Article 135b-6, Section 6(d).
Authorized: All Criminal History Record Information.
Licensing of structural pest control business operators and certified applicators.

LOCAL AGENCIES AND EMPLOYERS

ADULT PROBATION DEPARTMENTS IN HIDALGO COUNTY
Code of Criminal Procedure, Article 42.12, Section 10(j-1).
Authorized: All Criminal History Record Information.
Applicants to the probation department.

LOCAL LAW ENFORCEMENT AGENCIES (to check on McGruff and other "safehouses")
Human Resources Code, Section 80.002.
Authorized: All Criminal History Record Information.
To investigate each adult residing in a house for whom an application for designation as a safehouse has been made.

MUNICIPAL FIRE DEPARTMENTS
Vernon's Civil Statutes, Article 6252-13c, Section 3(b).
Authorized: Texas conviction data only.
Applicants to be certified by the Commission on Fire Protection Person Standards and Education for beginning positions with municipal fire departments.

POLITICAL SUBDIVISIONS

Vernon's Civil Statutes, Article 6252-13c, Section 3(c).
Authorized: Texas conviction data only.
Local law enforcement agencies can provide to political subdivisions the record of conviction data to any political subdivision that either employs or has the duty and responsibility of licensing and regulating drivers of public transportation vehicles.

PRIVATE EMPLOYERS IN FEDERALLY SUBSIDIZED HOUSING FOR THE DISABLED AND ELDERLY

Human Resources Code, Chapter 135.
Authorized: All Criminal History Record Information for selected offenses.
To investigate an applicant for employment.

SCHOOL DISTRICTS

Texas Education Code, Section 21.917.
Authorized: All Criminal History Record Information.
Applicants for employment.

FEDERAL AGENCIES

US DEPARTMENT OF DEFENSE AGENCIES
- Defense Investigative Service
- Air Force Office of Special Investigations
- Army Intelligence and Security Command
- National Security Agency

OFFICE OF PERSONNEL MANAGEMENT
CENTRAL INTELLIGENCE AGENCY
FEDERAL BUREAU OF INVESTIGATION

Public Law 99-169 (Security Clearance Information Act of 1985)
Authorized: All Criminal History Record Information.
Applicants for federal security clearances, applicants for assignment to or retention in federal positions involving national security duties.