

1-1 By: Perry S.B. No. 1540  
1-2 (In the Senate - Filed March 12, 2015; March 23, 2015, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 April 20, 2015, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 20, 2015,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Schwertner	X		
1-10	Kolkhorst	X		
1-11	Campbell	X		
1-12	Estes	X		
1-13	Perry	X		
1-14	Rodríguez	X		
1-15	Taylor of Collin	X		
1-16	Uresti	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1540 By: Estes

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the authority of the Health and Human Services  
1-22 Commission and the Department of Aging and Disability Services to  
1-23 obtain criminal history record information regarding certain  
1-24 applicants for employment and current employees.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Subchapter F, Chapter 411, Government Code, is  
1-27 amended by adding Section 411.1106 to read as follows:

1-28 Sec. 411.1106. ACCESS TO CRIMINAL HISTORY RECORD  
1-29 INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION. (a) In this  
1-30 section, "commission" means the Health and Human Services  
1-31 Commission.

1-32 (b) The executive commissioner of the commission, or the  
1-33 executive commissioner's designee, is entitled to obtain from the  
1-34 department criminal history record information maintained by the  
1-35 department that relates to a person who is:

1-36 (1) an applicant for employment for a position in  
1-37 which the person, as an employee, would have access to sensitive  
1-38 personal or financial information, as determined by the executive  
1-39 commissioner, in:

1-40 (A) the eligibility services division of the  
1-41 commission; or

1-42 (B) the commission's office of inspector  
1-43 general; or

1-44 (2) an employee of the commission who has access to  
1-45 sensitive personal or financial information, as determined by the  
1-46 executive commissioner.

1-47 (c) Criminal history record information obtained by the  
1-48 executive commissioner of the commission, or by the executive  
1-49 commissioner's designee, under Subsection (b) may not be released  
1-50 or disclosed, except:

1-51 (1) if the information is in a public record at the  
1-52 time the information is obtained;

1-53 (2) on court order;

1-54 (3) to a criminal justice agency, upon request;

1-55 (4) with the consent of the person who is the subject  
1-56 of the criminal history record information; or

1-57 (5) as provided by Subsection (d).

1-58 (d) The commission is not prohibited from disclosing  
1-59 criminal history record information obtained under Subsection (b)  
1-60 in a criminal proceeding or in a hearing conducted by the

commission.

(e) The executive commissioner shall destroy all criminal history record information obtained under Subsection (b) as soon as practicable after the information is used for its authorized purpose.

SECTION 2. Section [411.13861](#), Government Code, is amended by amending Subsection (a), as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and adding Subsection (f) to read as follows:

(a) The Department of Aging and Disability Services is entitled to obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to a person:

(1) required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code; ~~or~~

(2) who seeks unsupervised visits with a ward of the department, including a relative of the ward;

(3) who is an applicant for employment with the Department of Aging and Disability Services for a position in which the person, as an employee, would have direct access to residents or clients of a facility regulated by the department, as determined by the commissioner of aging and disability services; or

(4) who is an employee of the Department of Aging and Disability Services and who has direct access to residents or clients of a facility regulated by the department, as determined by the commissioner of aging and disability services.

(f) Notwithstanding Subsection (c), the Department of Aging and Disability Services shall destroy information obtained under Subsection (a)(3) or (4) after the information is used for the purposes authorized by this section.

SECTION 3. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.00553 to read as follows:

Sec. 531.00553. CRIMINAL BACKGROUND CHECKS. (a) In this section, "eligible person" means a person whose criminal history record information the executive commissioner, or the executive commissioner's designee, is entitled to obtain from the Department of Public Safety under Section [411.1106](#).

(b) The executive commissioner may require an eligible person to submit fingerprints in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for use in conducting a criminal history background check by obtaining criminal history record information under Sections [411.1106](#) and [411.087](#).

(c) Criminal history record information obtained by the executive commissioner under Sections [411.1106](#) and [411.087](#) may be used only to evaluate the qualification or suitability for employment, including continued employment, of an eligible person.

(d) Notwithstanding Subsection (c), the executive commissioner or the executive commissioner's designee may release or disclose criminal history record information obtained under Section [411.087](#) only to a governmental entity or as otherwise authorized by federal law, including federal regulations and executive orders.

SECTION 4. Subchapter C, Chapter 161, Human Resources Code, is amended by adding Section 161.057 to read as follows:

Sec. 161.057. CRIMINAL BACKGROUND CHECKS. (a) In this section, "eligible person" means a person whose criminal history record information the department is entitled to obtain from the Department of Public Safety under Section [411.13861](#), Government Code.

(b) The department may obtain criminal history record information regarding an eligible person as provided by Section [411.13861](#), Government Code. Criminal history record information obtained under Section [411.13861](#) is subject to the restrictions and requirements of that section.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section [39](#), Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this

3-1 Act takes effect September 1, 2015.

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