

1-1 By: Kolkhorst S.B. No. 2200  
 1-2 (In the Senate - Filed March 8, 2019; March 21, 2019, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 April 4, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 4, 2019,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2200 By: Miles

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 to obtain criminal history record information.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 411.110, Government Code, is amended to  
 1-25 read as follows:

1-26 Sec. 411.110. ACCESS TO CRIMINAL HISTORY RECORD  
 1-27 INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND  
 1-28 HUMAN SERVICES COMMISSION. (a) The Department of State Health  
 1-29 Services and the Health and Human Services Commission are [~~is~~]  
 1-30 entitled to obtain from the department criminal history record  
 1-31 information maintained by the department that relates to:

1-32 (1) a person who is:

1-33 (A) an applicant for a license or certificate  
 1-34 under the Emergency Health Care Act (Chapter 773, Health and Safety  
 1-35 Code);

1-36 (B) an owner or manager of an applicant for an  
 1-37 emergency medical services provider license under that Act; or

1-38 (C) the holder of a license or certificate under  
 1-39 that Act;

1-40 (2) an applicant for a license or a license holder  
 1-41 under Subchapter N, Chapter 431, Health and Safety Code;

1-42 (3) ~~[an applicant for a license, the owner or manager~~  
 1-43 ~~of an applicant for a massage establishment license, or a license~~  
 1-44 ~~holder under Chapter 455, Occupations Code;~~

1-45 [~~(4)~~] an applicant for employment at or current  
 1-46 employee of:

1-47 (A) a public health hospital as defined by  
 1-48 Section 13.033, Health and Safety Code; or

1-49 (B) the South Texas Health Care System;

1-50 (4) [~~(5)~~] an applicant for employment at, current  
 1-51 employee of, or person who contracts or may contract to provide  
 1-52 goods or services with the Council on Sex Offender Treatment or  
 1-53 other division or component of the Health and Human Services  
 1-54 Commission [~~Department of State Health Services~~] that monitors  
 1-55 sexually violent predators as described by Section 841.003(a),  
 1-56 Health and Safety Code; or

1-57 (5) [~~(6)~~] a person authorized to access vital records  
 1-58 or the vital records electronic registration system under Chapter  
 1-59 191, Health and Safety Code, including an employee of or contractor  
 1-60 for the Department of State Health Services, a local registrar, a

2-1 medical professional, or a funeral director.

2-2 (b) Criminal history record information obtained by the  
2-3 Department of State Health Services or the Health and Human  
2-4 Services Commission under Subsection (a) may not be released or  
2-5 disclosed to any person except on court order, with the written  
2-6 consent of the person or entity that is the subject of the criminal  
2-7 history record information, or as provided by Subsection (e).

2-8 (c) After an entity is licensed or certified, the Department  
2-9 of State Health Services or the Health and Human Services  
2-10 Commission, as applicable, shall destroy the criminal history  
2-11 record information that relates to that entity. The Department of  
2-12 State Health Services or the Health and Human Services Commission,  
2-13 as applicable, shall destroy the criminal history record  
2-14 information that relates to:

2-15 (1) an applicant for employment after that applicant  
2-16 is employed or, for an applicant who is not employed, after the  
2-17 check of the criminal history record information on that applicant  
2-18 is completed; or

2-19 (2) an employee or contractor after the check of the  
2-20 criminal history record information on that employee or contractor  
2-21 is completed.

2-22 (d) The Department of State Health Services or the Health  
2-23 and Human Services Commission, as applicable, shall destroy  
2-24 criminal history record information that relates to an applicant  
2-25 who is not certified or employed, as applicable.

2-26 (e) The Department of State Health Services or the Health  
2-27 and Human Services Commission is not prohibited from disclosing  
2-28 criminal history record information obtained under Subsection (a)  
2-29 in a criminal proceeding or in a hearing conducted by the Department  
2-30 of State Health Services or the Health and Human Services  
2-31 Commission, as applicable.

2-32 (f) The Department of State Health Services or the Health  
2-33 and Human Services Commission may not consider offenses for which  
2-34 points are assessed under Section 708.052, Transportation Code, to  
2-35 determine whether to hire or retain an employee or to contract with  
2-36 a person on whom criminal history record information is obtained  
2-37 under this section.

2-38 SECTION 2. Section 411.1103, Government Code, is amended to  
2-39 read as follows:

2-40 Sec. 411.1103. ACCESS TO CRIMINAL HISTORY RECORD  
2-41 INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND  
2-42 HUMAN SERVICES COMMISSION. (a) The Department of State Health  
2-43 Services and the Health and Human Services Commission are [~~is~~]  
2-44 entitled to obtain from the department criminal history record  
2-45 information maintained by the department that relates to a person:

2-46 (1) who is:  
2-47 (A) an applicant for employment at a state  
2-48 hospital;

2-49 (B) an employee of a state hospital;

2-50 (C) a person who contracts or may contract to  
2-51 provide goods or services to the Department of State Health  
2-52 Services or the Health and Human Services Commission, as  
2-53 applicable, at a state hospital or an employee of or applicant for  
2-54 employment with that person;

2-55 (D) a volunteer with a state hospital; or

2-56 (E) an applicant for a volunteer position with a  
2-57 state hospital; and

2-58 (2) who would be placed in direct contact with a  
2-59 patient at a state hospital.

2-60 (b) Criminal history record information obtained by the  
2-61 Department of State Health Services or the Health and Human  
2-62 Services Commission under this section may not be released or  
2-63 disclosed to any person except:

2-64 (1) on court order;

2-65 (2) with the consent of the person who is the subject  
2-66 of the criminal history record information;

2-67 (3) for purposes of an administrative hearing held by  
2-68 the Department of State Health Services or the Health and Human  
2-69 Services Commission, as applicable, concerning the person who is

3-1 the subject of the criminal history record information; or

3-2 (4) as provided by Subsection (c).

3-3 (c) The Department of State Health Services or the Health  
3-4 and Human Services Commission is not prohibited from releasing  
3-5 criminal history record information obtained under this section to  
3-6 the person who is the subject of the criminal history record  
3-7 information.

3-8 (d) Subject to Section 411.087, the Department of State  
3-9 Health Services and the Health and Human Services Commission are  
3-10 [~~is~~] entitled to:

3-11 (1) obtain through the Federal Bureau of Investigation  
3-12 criminal history record information maintained or indexed by that  
3-13 bureau that pertains to a person described by Subsection (a); and

3-14 (2) obtain from any other criminal justice agency in  
3-15 this state criminal history record information maintained by that  
3-16 criminal justice agency that relates to a person described by  
3-17 Subsection (a).

3-18 (e) This section does not prohibit the Department of State  
3-19 Health Services or the Health and Human Services Commission from  
3-20 obtaining and using criminal history record information as provided  
3-21 by other law.

3-22 SECTION 3. Section 411.1105, Government Code, is amended to  
3-23 read as follows:

3-24 Sec. 411.1105. ACCESS TO CRIMINAL HISTORY RECORD  
3-25 INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH AND  
3-26 HUMAN SERVICES COMMISSION. (a) The Department of State Health  
3-27 Services and the Health and Human Services Commission are [~~is~~]  
3-28 entitled to obtain from the department criminal history record  
3-29 information maintained by the department that relates to a person  
3-30 who is:

3-31 (1) an applicant for a chemical dependency counselor's  
3-32 license, a counselor intern's registration, or a clinical  
3-33 supervisor certification under Chapter 504, Occupations Code; or

3-34 (2) the holder of a license, registration, or  
3-35 certification under that chapter.

3-36 (b) In addition to information obtained from the Federal  
3-37 Bureau of Investigation under Section 411.087, the Department of  
3-38 State Health Services and the Health and Human Services Commission  
3-39 are [~~is~~] entitled to obtain information relating to the wanted  
3-40 persons status of an individual listed in Subsection (a).

3-41 (c) Criminal history record information obtained by the  
3-42 Department of State Health Services or the Health and Human  
3-43 Services Commission under Subsection (a) may not be released or  
3-44 disclosed to any person except on court order, with the consent of  
3-45 the person who is the subject of the criminal history record  
3-46 information, or as provided by Subsection (d).

3-47 (d) The Department of State Health Services or the Health  
3-48 and Human Services Commission, as applicable, may provide the  
3-49 applicant or licensee with a copy of the person's criminal history  
3-50 record information obtained from the Department of Public Safety,  
3-51 Federal Bureau of Investigation identification division, or  
3-52 another law enforcement agency.

3-53 SECTION 4. Section 411.1131, Government Code, is amended to  
3-54 read as follows:

3-55 Sec. 411.1131. ACCESS TO CRIMINAL HISTORY RECORD  
3-56 INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION [~~DEPARTMENT OF~~  
3-57 ~~ASSISTIVE AND REHABILITATIVE SERVICES~~]. (a) The Health and Human  
3-58 Services Commission [~~Department of Assistive and Rehabilitative~~  
3-59 ~~Services~~] is entitled to obtain from the department criminal  
3-60 history record information maintained by the department that  
3-61 relates to a person who is an applicant for a staff position at an  
3-62 outdoor training program for children who are deaf or hard of  
3-63 hearing conducted by a private entity through a contract with the  
3-64 Health and Human Services Commission [~~Department of Assistive and~~  
3-65 ~~Rehabilitative Services~~] in accordance with Section 81.013, Human  
3-66 Resources Code.

3-67 (b) Criminal history record information obtained by the  
3-68 Health and Human Services Commission [~~Department of Assistive and~~  
3-69 ~~Rehabilitative Services~~] under Subsection (a) may be used only to

4-1 evaluate an applicant for a staff position at an outdoor training  
4-2 program for children who are deaf or hard of hearing. The Health  
4-3 and Human Services Commission [~~Department of Assistive and~~  
4-4 ~~Rehabilitative Services~~] may release or disclose the information to  
4-5 a private entity described by Subsection (a) for that purpose.

4-6 (c) The Health and Human Services Commission [~~Department of~~  
4-7 ~~Assistive and Rehabilitative Services~~] may not release or disclose  
4-8 information obtained under Subsection (a), except on court order or  
4-9 with the consent of the person who is the subject of the criminal  
4-10 history record information, and shall destroy all criminal history  
4-11 record information obtained under Subsection (a) after the  
4-12 information is used for its authorized purpose.

4-13 SECTION 5. The heading to Section 411.114, Government Code,  
4-14 is amended to read as follows:

4-15 Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD  
4-16 INFORMATION: DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES AND  
4-17 HEALTH AND HUMAN SERVICES COMMISSION.

4-18 SECTION 6. Sections 411.114(a), (b), and (c), Government  
4-19 Code, are amended to read as follows:

4-20 (a)(1) In this subsection:

4-21 (A) "Child," "child-care facility,"  
4-22 "child-placing agency," "facility," and "family home" have the  
4-23 meanings assigned by Section 42.002, Human Resources Code.

4-24 (A-1) "Department of Family and Protective  
4-25 Services" includes:

4-26 (i) the Department of Family and Protective  
4-27 Services as authorized by Section 40.002, Human Resources Code; and

4-28 (ii) [~~the Health and Human Services~~  
4-29 ~~Commission with respect to a function transferred to the commission~~  
4-30 ~~under Subchapter A-1, Chapter 531; and~~

4-31 [~~(iii)~~] any person or entity acting as an  
4-32 authorized agent of the Department of Family and Protective  
4-33 Services.

4-34 (B) "Elderly person" has the meaning assigned by  
4-35 Section 48.002, Human Resources Code.

4-36 (D) "Person with a disability" has the meaning  
4-37 assigned [~~means a disabled person as defined~~] by Section 48.002,  
4-38 Human Resources Code.

4-39 (2) The Department of Family and Protective Services  
4-40 or the Health and Human Services Commission, as applicable, shall  
4-41 obtain from the department criminal history record information  
4-42 maintained by the department that relates to a person who is:

4-43 (A) an applicant for a license, registration,  
4-44 certification, or listing under Chapter 42, Human Resources Code;

4-45 (B) an owner, operator, or employee of or an  
4-46 applicant for employment by a child-care facility, child-placing  
4-47 agency, or family home licensed, registered, certified, or listed  
4-48 under Chapter 42, Human Resources Code;

4-49 (C) a person 14 years of age or older who will be  
4-50 regularly or frequently working or staying in a facility or family  
4-51 home, other than a child in the care of the home or facility;

4-52 (D) [~~except as provided by Subsection (d),~~] an  
4-53 applicant selected for a position with the Department of Family and  
4-54 Protective Services or the Health and Human Services Commission,  
4-55 the duties of which include direct delivery of protective services  
4-56 to children, elderly persons, or persons with a disability;

4-57 (E) an employee of, an applicant for employment  
4-58 with, or a volunteer or an applicant volunteer with a business  
4-59 entity or person that contracts with the Department of Family and  
4-60 Protective Services or the Health and Human Services Commission to  
4-61 provide direct delivery of protective services to children, elderly  
4-62 persons, or persons with a disability, if the person's duties or  
4-63 responsibilities include direct contact with children, elderly  
4-64 persons, or persons with a disability;

4-65 (F) a registered volunteer with the Department of  
4-66 Family and Protective Services or the Health and Human Services  
4-67 Commission;

4-68 (G) a person providing or applying to provide  
4-69 in-home, adoptive, or foster care for children in the care of the

5-1 Department of Family and Protective Services or the Health and  
5-2 Human Services Commission and other persons living in the residence  
5-3 in which the child will reside;

5-4 (H) a Department of Family and Protective  
5-5 Services employee or a Health and Human Services Commission  
5-6 employee who is engaged in the direct delivery of protective  
5-7 services to children, elderly persons, or persons with a  
5-8 disability;

5-9 (I) an alleged perpetrator in a report the  
5-10 Department of Family and Protective Services or the Health and  
5-11 Human Services Commission receives alleging that the person has  
5-12 abused, neglected, or exploited a child, an elderly person, or a  
5-13 person with a disability, provided that:

5-14 (i) the report alleges the person has  
5-15 engaged in conduct that meets the applicable definition of abuse,  
5-16 neglect, or exploitation under Chapter 261, Family Code, or Chapter  
5-17 48, Human Resources Code; and

5-18 (ii) the person is not also the victim of  
5-19 the alleged conduct;

5-20 (J) a person providing child care for a child who  
5-21 is in the care of the Department of Family and Protective Services  
5-22 or the Health and Human Services Commission and who is or will be  
5-23 receiving adoptive, foster, or in-home care;

5-24 (K) through a contract with a nonprofit  
5-25 management center, an employee of, an applicant for employment  
5-26 with, or a volunteer or an applicant volunteer with a nonprofit,  
5-27 tax-exempt organization that provides any service that involves the  
5-28 care of or access to a child, an elderly person, or a person with a  
5-29 disability; or

5-30 (L) an applicant for a child-care administrator  
5-31 or child-placing agency administrator license under Chapter 43,  
5-32 Human Resources Code.

5-33 (3) In addition to the criminal history record  
5-34 information the Department of Family and Protective Services or the  
5-35 Health and Human Services Commission is required to obtain under  
5-36 Subdivision (2), the Department of Family and Protective Services  
5-37 or the Health and Human Services Commission, as applicable, is  
5-38 entitled to obtain from the department criminal history record  
5-39 information maintained by the department that relates to a person  
5-40 who is:

5-41 (A) an applicant for a position with the  
5-42 Department of Family and Protective Services or the Health and  
5-43 Human Services Commission regardless of the duties of the position,  
5-44 including a position described by Subdivision (2)(D);

5-45 (B) a Department of Family and Protective  
5-46 Services employee or a Health and Human Services Commission  
5-47 employee regardless of the duties of the employee's position,  
5-48 including an employee described by Subdivision (2)(H);

5-49 (C) a volunteer or applicant volunteer with the  
5-50 Department of Family and Protective Services or the Health and  
5-51 Human Services Commission regardless of the duties to be performed,  
5-52 including a registered volunteer;

5-53 (D) an employee of, an applicant for employment  
5-54 with, or a volunteer or an applicant volunteer with an entity or  
5-55 person that contracts with the Department of Family and Protective  
5-56 Services or the Health and Human Services Commission, as  
5-57 applicable, and has access to confidential information in that  
5-58 ~~the~~ department's or commission's records, if the employee,  
5-59 applicant, volunteer, or applicant volunteer has or will have  
5-60 access to that confidential information;

5-61 (E) a person living in the residence in which the  
5-62 alleged victim of the report resides, including an alleged  
5-63 perpetrator in a report described by Subdivision (2)(I);

5-64 (F) a person providing, at the request of the  
5-65 child's parent, in-home care for a child who is the subject of a  
5-66 report alleging the child has been abused or neglected;

5-67 (G) a person providing, at the request of the  
5-68 child's parent, in-home care for a child only if the person gives  
5-69 written consent to the release and disclosure of the information;

6-1 (H) a child who is related to the caretaker, as  
6-2 determined under Section 42.002, Human Resources Code, or any other  
6-3 person who resides in, is present in, or has unsupervised access to  
6-4 a child in the care of a facility or family home;

6-5 (I) a relative of a child in the care of the  
6-6 Department of Family and Protective Services or the Health and  
6-7 Human Services Commission, as applicable, to the extent necessary  
6-8 to comply with Section 162.007, Family Code;

6-9 (J) a person providing or applying to provide  
6-10 in-home, adoptive, or foster care for children to the extent  
6-11 necessary to comply with Subchapter B, Chapter 162, Family Code;

6-12 (K) a person who volunteers to supervise  
6-13 visitation under Subchapter B, Chapter 263, Family Code;

6-14 (L) an employee of or volunteer at, or an  
6-15 applicant for employment with or to be a volunteer at, an entity  
6-16 that provides supervised independent living services to a young  
6-17 adult receiving extended foster care services from the Department  
6-18 of Family and Protective Services or the Health and Human Services  
6-19 Commission, as applicable;

6-20 (M) a person 14 years of age or older who will be  
6-21 regularly or frequently working or staying in a host home that is  
6-22 providing supervised independent living services to a young adult  
6-23 receiving extended foster care services from the Department of  
6-24 Family and Protective Services or the Health and Human Services  
6-25 Commission, as applicable;

6-26 (N) a volunteer or applicant volunteer with a  
6-27 local affiliate in this state of Big Brothers Big Sisters of  
6-28 America;

6-29 (O) a volunteer or applicant volunteer with an  
6-30 organization that provides court-appointed volunteer advocates for  
6-31 abused or neglected children; or

6-32 (P) an employee, volunteer, or applicant  
6-33 volunteer of a children's advocacy center under Subchapter E,  
6-34 Chapter 264, Family Code, including a member of the governing board  
6-35 of a center.

6-36 (4) Subject to Section 411.087, the Department of  
6-37 Family and Protective Services and the Health and Human Services  
6-38 Commission are [~~is~~] entitled to:

6-39 (A) obtain through the Federal Bureau of  
6-40 Investigation criminal history record information maintained or  
6-41 indexed by that bureau that pertains to a person described by  
6-42 Subdivision (2) or (3); and

6-43 (B) obtain from any other criminal justice agency  
6-44 in this state criminal history record information maintained by  
6-45 that criminal justice agency that relates to a person described by  
6-46 Subdivision (2) or (3). Law enforcement entities shall expedite  
6-47 the furnishing of such information to Department of Family and  
6-48 Protective Services workers or Health and Human Services Commission  
6-49 workers, as applicable, to ensure prompt criminal background checks  
6-50 for the safety of alleged victims and Department of Family and  
6-51 Protective Services workers or Health and Human Services Commission  
6-52 workers, as applicable.

6-53 (5) The Department of Family and Protective Services  
6-54 or the Health and Human Services Commission may not use the  
6-55 authority granted under this section to harass an employee or  
6-56 volunteer. The commissioner of the Department of Family and  
6-57 Protective Services or the executive commissioner of the Health and  
6-58 Human Services Commission, as applicable, shall adopt rules to  
6-59 prevent the harassment of an employee or volunteer through the  
6-60 request and use of criminal records.

6-61 (6) Criminal history record information obtained by  
6-62 the Department of Family and Protective Services or the Health and  
6-63 Human Services Commission under this subsection may not be released  
6-64 to any person except:

6-65 (A) on court order;

6-66 (B) with the consent of the person who is the  
6-67 subject of the criminal history record information;

6-68 (C) for purposes of an administrative hearing  
6-69 held by the Department of Family and Protective Services or the

7-1 Health and Human Services Commission, as applicable, concerning the  
7-2 person who is the subject of the criminal history record  
7-3 information; or

7-4 (D) as provided by Subdivision (7).

7-5 (7) Subject to Subdivision (8), the [The] Department  
7-6 of Family and Protective Services or the Health and Human Services  
7-7 Commission, as applicable, is not prohibited from releasing  
7-8 criminal history record information obtained under this subsection  
7-9 to:

7-10 (A) the person who is the subject of the criminal  
7-11 history record information;

7-12 (B) a child-placing agency listed in Subdivision  
7-13 (2) that is seeking to verify or approve a foster or adoptive home  
7-14 under procedures authorized by federal law [~~Section 471(a)(20)(A),~~  
7-15 ~~Social Security Act (42 U.S.C. Section 671(a)(20)(A))~~];

7-16 (C) an adult who resides with an alleged victim  
7-17 of abuse, neglect, or exploitation of a child, elderly person, or  
7-18 person with a disability and who also resides with the alleged  
7-19 perpetrator of that abuse, neglect, or exploitation if:

7-20 (i) the alleged perpetrator is the subject  
7-21 of the criminal history record information; and

7-22 (ii) the Department of Family and  
7-23 Protective Services or the Health and Human Services Commission, as  
7-24 applicable, determines that the release of information to the adult  
7-25 is necessary to ensure the safety or welfare of the alleged victim  
7-26 or the adult; or

7-27 (D) an elderly person or a [~~disabled~~] person with  
7-28 a disability who is an alleged victim of abuse, neglect, or  
7-29 exploitation and who resides with the alleged perpetrator of that  
7-30 abuse, neglect, or exploitation if:

7-31 (i) the alleged perpetrator is the subject  
7-32 of the criminal history record information; and

7-33 (ii) the Department of Family and  
7-34 Protective Services or the Health and Human Services Commission, as  
7-35 applicable, determines that the release of information to the  
7-36 [~~elderly or disabled~~] person [~~or adult~~] is necessary to ensure the  
7-37 safety or welfare of the [~~elderly or disabled~~] person.

7-38 (8) The Department of Family and Protective Services  
7-39 or the Health and Human Services Commission may only release to a  
7-40 person described by Subdivision (7)(C) or (D) criminal history  
7-41 record information that that department or commission obtains from  
7-42 the Department of Public Safety's computerized criminal history  
7-43 system.

7-44 (b) The failure or refusal to provide a complete set of  
7-45 fingerprints or a complete name on request constitutes good cause  
7-46 for dismissal or refusal to hire, as applicable, with regard to a  
7-47 volunteer of or an employee or applicant for permanent or temporary  
7-48 employment with the Department of Family and Protective Services or  
7-49 the Health and Human Services Commission, as applicable, or a  
7-50 facility, home, business, or other entity, if the volunteer  
7-51 position, employment, or potential employment involves direct  
7-52 interaction with or the opportunity to interact and associate with  
7-53 children.

7-54 (c) The Department of Family and Protective Services or the  
7-55 Health and Human Services Commission, as applicable, may charge an  
7-56 organization or person that requests criminal history record  
7-57 information under Subsection (a)(3) a fee in an amount necessary to  
7-58 cover the costs of obtaining the information on the organization's  
7-59 or person's behalf.

7-60 SECTION 7. Section 411.1142, Government Code, is amended to  
7-61 read as follows:

7-62 Sec. 411.1142. ACCESS TO CRIMINAL HISTORY RECORD:  
7-63 [~~INTERAGENCY COUNCIL ON~~] EARLY CHILDHOOD INTERVENTION PROGRAM  
7-64 WITHIN HEALTH AND HUMAN SERVICES COMMISSION. (a) The [~~Interagency~~  
7-65 ~~Council on~~] Early Childhood Intervention program within the Health  
7-66 and Human Services Commission is entitled to obtain criminal  
7-67 history record information maintained by the Department of Public  
7-68 Safety, the Federal Bureau of Investigation identification  
7-69 division, or another law enforcement agency that relates to an

8-1 employee or an applicant for permanent, temporary, or consultative  
8-2 employment or for volunteer positions whose employment or potential  
8-3 employment or volunteer position with the program [~~council~~] or a  
8-4 local provider involves the delivery of early childhood  
8-5 intervention services or involves direct interactions with or the  
8-6 opportunity to interact and associate with children.

8-7 (b) Criminal history record information obtained by the  
8-8 Health and Human Services Commission [~~council~~] under Subsection (a)  
8-9 may not be released or disclosed to any person except on court  
8-10 order, with the consent of the person who is the subject of the  
8-11 criminal history record information, or as provided by Subsection  
8-12 (d).

8-13 (c) The Health and Human Services Commission [~~council~~]  
8-14 shall destroy criminal history record information that relates to a  
8-15 person after the information is used for its authorized purpose.

8-16 (d) The Health and Human Services Commission [~~council~~] may  
8-17 provide the applicant, employee, professional consultant, or  
8-18 volunteer with a copy of the person's criminal history record  
8-19 information obtained from the Department of Public Safety, Federal  
8-20 Bureau of Investigation identification division, or another law  
8-21 enforcement agency.

8-22 (e) The failure or refusal to provide a complete set of  
8-23 fingerprints or a complete name on request constitutes good cause  
8-24 for dismissal or refusal to hire, as applicable, with regard to  
8-25 program [~~council~~] employees, professional consultants, and  
8-26 applicants for permanent, temporary, or consultative employment or  
8-27 for volunteer positions whose employment or potential employment or  
8-28 volunteer position with the Health and Human Services Commission  
8-29 [~~council~~] or a local provider involves the delivery of early  
8-30 childhood intervention services or involves direct interactions  
8-31 with or the opportunity to interact and associate with children.

8-32 SECTION 8. Sections 411.1144(a) and (d), Government Code,  
8-33 are amended to read as follows:

8-34 (a) The Department of State Health Services [~~the~~  
8-35 ~~Department of Aging and Disability Services,~~] and the Health and  
8-36 Human Services Commission are entitled to obtain from the  
8-37 department criminal history record information maintained by the  
8-38 department that relates to a person:

- 8-39 (1) who is:  
8-40 (A) an applicant for employment with the agency;  
8-41 (B) an employee of the agency;  
8-42 (C) a volunteer with the agency;  
8-43 (D) an applicant for a volunteer position with  
8-44 the agency;  
8-45 (E) an applicant for a contract with the agency;  
8-46 or  
8-47 (F) a contractor of the agency; and

8-48 (2) who would be placed in direct contact with a  
8-49 resident or client, as defined by Section 555.001, Health and  
8-50 Safety Code.

8-51 (d) Subject to Section 411.087, the Department of State  
8-52 Health Services [~~the Department of Aging and Disability Services,~~]  
8-53 and the Health and Human Services Commission are entitled to:

- 8-54 (1) obtain through the Federal Bureau of Investigation  
8-55 criminal history record information maintained or indexed by that  
8-56 bureau that pertains to a person described by Subsection (a); and  
8-57 (2) obtain from any other criminal justice agency in  
8-58 this state criminal history record information maintained by that  
8-59 criminal justice agency that relates to a person described by  
8-60 Subsection (a).

8-61 SECTION 9. Section 411.115, Government Code, is amended to  
8-62 read as follows:

8-63 Sec. 411.115. ACCESS TO CRIMINAL HISTORY RECORD  
8-64 INFORMATION: [~~TEXAS~~] DEPARTMENT OF STATE HEALTH SERVICES AND HEALTH  
8-65 AND HUMAN SERVICES COMMISSION [~~MENTAL HEALTH AND MENTAL~~  
8-66 ~~RETARDATION~~]; LOCAL AUTHORITIES; COMMUNITY CENTERS. (a) In this  
8-67 section, "local mental health authority," "local intellectual and  
8-68 developmental disability [~~mental retardation~~] authority," and  
8-69 "community center" have the meanings assigned by Section 531.002,



9-1 Health and Safety Code.

9-2 (b) The ~~[Texas]~~ Department of State Health Services, the  
9-3 Health and Human Services Commission ~~[Mental Health and Mental~~  
9-4 ~~Retardation]~~, a local mental health or intellectual and  
9-5 developmental disability ~~[mental retardation]~~ authority, or a  
9-6 community center, as applicable, is entitled to obtain from the  
9-7 department criminal history record information maintained by the  
9-8 department that relates to a person:

9-9 (1) who is:

9-10 (A) an applicant for employment with the ~~[Texas]~~  
9-11 Department of State Health Services, the Health and Human Services  
9-12 Commission ~~[Mental Health and Mental Retardation]~~, a local mental  
9-13 health or intellectual and developmental disability ~~[mental~~  
9-14 ~~retardation]~~ authority, or a community center;

9-15 (B) an employee of the ~~[Texas]~~ Department of  
9-16 State Health Services, the Health and Human Services Commission  
9-17 [Mental Health and Mental Retardation], a local mental health or  
9-18 intellectual and developmental disability ~~[mental retardation]~~  
9-19 authority, or a community center;

9-20 (C) an applicant for employment with or an  
9-21 employee of a business or person that contracts with the ~~[Texas]~~  
9-22 Department of State Health Services, the Health and Human Services  
9-23 Commission ~~[Mental Health and Mental Retardation]~~, a local mental  
9-24 health or intellectual and developmental disability ~~[mental~~  
9-25 ~~retardation]~~ authority, or a community center to provide  
9-26 residential services to patients with mental illness or clients  
9-27 with an intellectual or developmental disability ~~[mental~~  
9-28 ~~retardation]~~ who were furloughed or discharged from a ~~[Texas]~~  
9-29 Department of State Health Services facility, a Health and Human  
9-30 Services Commission facility, ~~[Mental Health and Mental~~  
9-31 ~~Retardation facility]~~ or a community center, as applicable;

9-32 (D) a volunteer with the ~~[Texas]~~ Department of  
9-33 State Health Services, the Health and Human Services Commission  
9-34 [Mental Health and Mental Retardation], a local mental health or  
9-35 intellectual and developmental disability ~~[mental retardation]~~  
9-36 authority, or a community center; or

9-37 (E) a volunteer applicant; and

9-38 (2) who would be placed in direct contact with  
9-39 patients with mental illness or clients with an intellectual or  
9-40 developmental disability ~~[mental retardation]~~.

9-41 (d) Criminal history record information obtained by the  
9-42 Department of State Health Services, the Health and Human Services  
9-43 Commission ~~[mental health department]~~, a local mental health or  
9-44 intellectual and developmental disability ~~[mental retardation]~~  
9-45 authority, or a community center under Subsection (b) may not be  
9-46 released or disclosed to a person, other than the contractor that  
9-47 employs the person who is the subject of the criminal history record  
9-48 information, except on court order or with the consent of the person  
9-49 who is the subject of the criminal history record information.

9-50 (e) The ~~[Texas]~~ Department of State Health Services, the  
9-51 Health and Human Services Commission ~~[Mental Health and Mental~~  
9-52 ~~Retardation]~~, a local mental health or intellectual and  
9-53 developmental disability ~~[mental retardation]~~ authority, or a  
9-54 community center, as applicable, shall collect and destroy criminal  
9-55 history record information that relates to a person immediately  
9-56 after making an employment decision or taking a personnel action  
9-57 relating to the person who is the subject of the criminal history  
9-58 record information.

9-59 SECTION 10. Section 411.117, Government Code, is amended to  
9-60 read as follows:

9-61 Sec. 411.117. ACCESS TO CRIMINAL HISTORY RECORD  
9-62 INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION AND TEXAS  
9-63 WORKFORCE COMMISSION ~~[DEPARTMENT OF ASSISTIVE AND REHABILITATIVE~~  
9-64 ~~SERVICES]~~. The Health and Human Services Commission and the Texas  
9-65 Workforce Commission are ~~[Department of Assistive and~~  
9-66 ~~Rehabilitative Services is]~~ entitled to obtain from the department  
9-67 criminal history record information maintained by the department  
9-68 that relates to a person who is:

9-69 (1) an applicant for services of the Health and Human

10-1 Services Commission or the Texas Workforce Commission, as  
10-2 applicable [~~Department of Assistive and Rehabilitative Services~~];  
10-3 (2) a client of the Health and Human Services  
10-4 Commission or the Texas Workforce Commission, as applicable  
10-5 [~~Department of Assistive and Rehabilitative Services~~]; or  
10-6 (3) an applicant for employment whose potential duties  
10-7 include direct contact with clients of the Health and Human  
10-8 Services Commission or the Texas Workforce Commission, as  
10-9 applicable [~~Department of Assistive and Rehabilitative Services~~].

10-10 SECTION 11. Section 411.122(d), Government Code, is amended  
10-11 to read as follows:

10-12 (d) The following state agencies are subject to this  
10-13 section:

- 10-14 (1) Texas Appraiser Licensing and Certification  
10-15 Board;
- 10-16 (2) Texas Board of Architectural Examiners;
- 10-17 (3) Texas Board of Chiropractic Examiners;
- 10-18 (4) State Board of Dental Examiners;
- 10-19 (5) Texas Board of Professional Engineers;
- 10-20 (6) Texas Funeral Service Commission;
- 10-21 (7) Texas Board of Professional Geoscientists;
- 10-22 (8) Health and Human Services Commission and the

10-23 Department of State Health Services, except as provided by Section  
10-24 411.110, and agencies attached to that commission [~~the department~~],  
10-25 including:

- 10-26 (A) Texas State Board of Examiners of Marriage  
10-27 and Family Therapists;
- 10-28 (B) Texas State Board of Examiners of  
10-29 Professional Counselors; and
- 10-30 (C) Texas State Board of Social Worker Examiners;
- 10-31 (9) Texas Board of Professional Land Surveying;
- 10-32 (10) Texas Department of Licensing and Regulation,  
10-33 except as provided by Section 411.093;
- 10-34 (11) Texas Commission on Environmental Quality;
- 10-35 (12) Texas Board of Occupational Therapy Examiners;
- 10-36 (13) Texas Optometry Board;
- 10-37 (14) Texas State Board of Pharmacy;
- 10-38 (15) Texas Board of Physical Therapy Examiners;
- 10-39 (16) Texas State Board of Plumbing Examiners;
- 10-40 (17) [~~Texas State Board of Podiatric Medical~~  
10-41 ~~Examiners;~~
- 10-42 [~~(18)~~] Texas State Board of Examiners of  
10-43 Psychologists;
- 10-44 (18) [~~(19)~~] Texas Real Estate Commission;
- 10-45 (19) [~~(20)~~] Texas Department of Transportation;
- 10-46 (20) [~~(21)~~] State Board of Veterinary Medical  
10-47 Examiners;
- 10-48 (21) [~~(22)~~] Texas Department of Housing and Community  
10-49 Affairs;
- 10-50 (22) [~~(23)~~] secretary of state;
- 10-51 (23) [~~(24)~~] state fire marshal;
- 10-52 (24) [~~(25)~~] Texas Education Agency;
- 10-53 (25) [~~(26)~~] Department of Agriculture; and
- 10-54 (26) [~~(27)~~] Texas Department of Motor Vehicles.

10-55 SECTION 12. The heading to Section 411.1386, Government  
10-56 Code, is amended to read as follows:

10-57 Sec. 411.1386. ACCESS TO CRIMINAL HISTORY RECORD  
10-58 INFORMATION: COURT CLERK; HEALTH AND HUMAN SERVICES COMMISSION  
10-59 [~~DEPARTMENT OF AGING AND DISABILITY SERVICES~~]; GUARDIANSHIPS.

10-60 SECTION 13. Sections 411.1386(a-1), (a-2), (a-4), (e), and  
10-61 (i), Government Code, are amended to read as follows:

10-62 (a-1) The Health and Human Services Commission [~~Department~~  
10-63 ~~of Aging and Disability Services~~] shall obtain from the Department  
10-64 of Public Safety criminal history record information maintained by  
10-65 the Department of Public Safety that relates to each individual who  
10-66 is or will be providing guardianship services to a ward of or  
10-67 referred by the Health and Human Services Commission [~~Department of~~  
10-68 ~~Aging and Disability Services~~], including:

- 10-69 (1) an employee of or an applicant selected for an

11-1 employment position with the Health and Human Services Commission  
11-2 [~~Department of Aging and Disability Services~~];

11-3 (2) a volunteer or an applicant selected to volunteer  
11-4 with the Health and Human Services Commission [~~Department of Aging~~  
11-5 ~~and Disability Services~~];

11-6 (3) an employee of or an applicant selected for an  
11-7 employment position with a business entity or other person that  
11-8 contracts with the Health and Human Services Commission [~~Department~~  
11-9 ~~of Aging and Disability Services~~] to provide guardianship services  
11-10 to a ward referred by that commission [~~the department~~];

11-11 (4) a volunteer or an applicant selected to volunteer  
11-12 with a business entity or person described by Subdivision (3); and

11-13 (5) a contractor or an employee of a contractor who  
11-14 provides services to a ward of the Health and Human Services  
11-15 Commission [~~Department of Aging and Disability Services~~] under a  
11-16 contract with the estate of the ward.

11-17 (a-2) The information in Subsection (a-1) regarding  
11-18 applicants for employment positions must be obtained before an  
11-19 offer of employment, and the information regarding applicant  
11-20 volunteers must be obtained before the person's contact with a ward  
11-21 of or referred by the Health and Human Services Commission  
11-22 [~~Department of Aging and Disability Services~~].

11-23 (a-4) The Health and Human Services Commission [~~Department~~  
11-24 ~~of Aging and Disability Services~~] shall provide the information  
11-25 obtained under Subsection (a-1) to:

11-26 (1) the clerk of the county having venue over the  
11-27 guardianship proceeding at the request of the court; and

11-28 (2) the guardianship certification program of the  
11-29 Judicial Branch Certification Commission at the request of the  
11-30 Judicial Branch Certification Commission [~~commission~~].

11-31 (e) The court, as that term is defined by Section 1002.008,  
11-32 Estates Code, shall use the information obtained or provided under  
11-33 Subsection (a), (a-4)(1), (a-5), or (a-6) only in determining  
11-34 whether to:

11-35 (1) appoint, remove, or continue the appointment of a  
11-36 private professional guardian, a guardianship program, or the  
11-37 Health and Human Services Commission [~~Department of Aging and~~  
11-38 ~~Disability Services~~]; or

11-39 (2) appoint any other person proposed to serve as a  
11-40 guardian under Title 3, Estates Code, including a proposed  
11-41 temporary guardian and a proposed successor guardian, other than an  
11-42 attorney.

11-43 (i) This section does not prohibit the Health and Human  
11-44 Services Commission [~~Department of Aging and Disability Services~~]  
11-45 from obtaining and using criminal history record information as  
11-46 provided by other law.

11-47 SECTION 14. The heading to Section 411.13861, Government  
11-48 Code, is amended to read as follows:

11-49 Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD  
11-50 INFORMATION: HEALTH AND HUMAN SERVICES COMMISSION [~~DEPARTMENT OF~~  
11-51 ~~AGING AND DISABILITY SERVICES~~].

11-52 SECTION 15. Sections 411.13861(a), (b), (c), (d), and (f),  
11-53 Government Code, are amended to read as follows:

11-54 (a) The Health and Human Services Commission [~~Department of~~  
11-55 ~~Aging and Disability Services~~] is entitled to obtain from the  
11-56 Department of Public Safety criminal history record information  
11-57 maintained by the Department of Public Safety that relates to a  
11-58 person:

11-59 (1) required to undergo a background and criminal  
11-60 history check under Chapter 248A, Health and Safety Code;

11-61 (2) who seeks unsupervised visits with a ward of the  
11-62 Health and Human Services Commission [~~department~~], including a  
11-63 relative of the ward;

11-64 (3) who is an applicant for employment with the Health  
11-65 and Human Services Commission [~~Department of Aging and Disability~~  
11-66 ~~Services~~] for a position in which the person, as an employee, would  
11-67 have direct access to residents or clients of a facility regulated  
11-68 by the Health and Human Services Commission [~~department~~], as  
11-69 determined by the executive commissioner of that commission [~~aging~~

12-1 ~~and disability services]; or~~  
12-2 (4) who is an employee of the Health and Human Services  
12-3 Commission [~~Department of Aging and Disability Services~~] and who  
12-4 has direct access to residents or clients of a facility regulated by  
12-5 that commission [~~the department~~], as determined by the executive  
12-6 commissioner of that commission [~~aging and disability services~~].

12-7 (b) Criminal history record information obtained under  
12-8 Subsection (a) is for the exclusive use of the Health and Human  
12-9 Services Commission [~~Department of Aging and Disability Services~~]  
12-10 and is privileged and confidential.

12-11 (c) Criminal history record information obtained under  
12-12 Subsection (a) may not be released or disclosed to any person or  
12-13 agency except on court order or with the consent of the person who  
12-14 is the subject of the information. The Health and Human Services  
12-15 Commission [~~Department of Aging and Disability Services~~] may  
12-16 destroy the criminal history record information after the  
12-17 information is used for the purposes authorized by this section.

12-18 (d) This section does not prohibit the Health and Human  
12-19 Services Commission [~~Department of Aging and Disability Services~~]  
12-20 from obtaining and using criminal history record information as  
12-21 provided by other law.

12-22 (f) Notwithstanding Subsection (c), the Health and Human  
12-23 Services Commission [~~Department of Aging and Disability Services~~]  
12-24 shall destroy information obtained under Subsection (a)(3) or (4)  
12-25 after the information is used for the purposes authorized by this  
12-26 section.

12-27 SECTION 16. Section 411.114(d), Government Code, is  
12-28 repealed.

12-29 SECTION 17. To the extent of any conflict, this Act prevails  
12-30 over another Act of the 86th Legislature, Regular Session, 2019,  
12-31 relating to nonsubstantive additions to and corrections in enacted  
12-32 codes.

12-33 SECTION 18. This Act takes effect immediately if it  
12-34 receives a vote of two-thirds of all the members elected to each  
12-35 house, as provided by Section 39, Article III, Texas Constitution.  
12-36 If this Act does not receive the vote necessary for immediate  
12-37 effect, this Act takes effect September 1, 2019.

12-38 \* \* \* \* \*