

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION

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

SUBCHAPTER A. GENERAL PROVISIONS AND ADMINISTRATION

Sec. 411.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Public Safety Commission.

(2) "Department" means the Department of Public Safety of the State of Texas.

(3) "Director" means the public safety director.

(4) "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 791, Sec. 1, eff. June 18, 1999.

Sec. 411.0011. CERTAIN LOCAL GOVERNMENT CORPORATIONS ENGAGED IN CRIMINAL IDENTIFICATION ACTIVITIES. For purposes of this chapter, a reference to "criminal justice agency" includes a local government corporation created under Subchapter D, Chapter 431, Transportation Code, for governmental purposes relating to criminal identification activities, including forensic analysis, that allocates a substantial part of its annual budget to those criminal identification activities.

Added by Acts 2013, 83rd Leg., R.S., Ch. 782 (S.B. [1238](#)), Sec. 5, eff. June 14, 2013.

Sec. 411.002. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS. (a) The Department of Public Safety of the State of Texas is an agency of the state to enforce the laws protecting the public safety and provide for the prevention and detection of crime. The department is composed of the Texas Rangers, the Texas Highway Patrol, the administrative division, and other divisions that the commission considers necessary.

(b) The department shall have its principal office and

headquarters in Austin.

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 2019.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.19(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 1.23, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 790, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1169, Sec. 4.03, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 5.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. [652](#)), Sec. 4.01, eff. June 17, 2011.

Sec. 411.003. PUBLIC SAFETY COMMISSION. (a) The Public Safety Commission controls the department.

(b) The commission is composed of five citizens of this state appointed by the governor with the advice and consent of the senate. Members must be selected because of their peculiar qualifications for the position and must reflect the diverse geographic regions and population groups of this state. Members must have and maintain a secret security clearance granted by the United States government. A member may serve on the commission upon the granting of an interim secret security clearance, but may not be given access to classified information, participate in a briefing involving classified information, or vote on an issue involving classified information until a secret security clearance has been finally approved by the United States government. Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin. In making an appointment the governor shall consider, among other things, the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability.

(c) Members serve staggered six-year terms with the terms of either one or two members expiring January 1 of each even-numbered year.

(d) The governor shall designate one member of the commission as chairman of the commission to serve in that capacity at the pleasure of the governor. The commission shall meet at the times and places specified by commission rule or at the call of the chairman. The chairman shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each member at least seven days before the meeting.

(e) A member serves without compensation for service on the commission but is entitled to per diem for expenses as provided by the General Appropriations Act.

(f) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 2, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 20.01, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 120 (S.B. 1814), Sec. 1, eff. May 18, 2013.

Sec. 411.0031. TRAINING FOR COMMISSION MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the department and the commission;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department, with an emphasis on

the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the commission and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of law enforcement or private security; or

(2) the person's spouse is an officer, manager, or paid

consultant of a Texas trade association in the field of law enforcement or private security.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 4, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.02, eff. September 1, 2009.

Sec. 411.0036. REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 411.003;

(2) does not maintain during service on the commission the qualifications required by Section 411.003;

(3) violates a prohibition established by Section 411.0035;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the commission of the potential ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the director shall notify the member with the longest tenure on the commission, other than the chairman, who shall then

notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 5, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 2, eff. Sept. 1, 1999.

Sec. 411.004. DUTIES AND POWERS OF COMMISSION. The commission shall:

- (1) formulate plans and policies for:
 - (A) enforcement of state criminal, traffic, and safety laws;
 - (B) prevention of crime;
 - (C) detection and apprehension of persons who violate laws; and
 - (D) education of citizens of this state in the promotion of public safety and the observance of law;
- (2) organize the department and supervise its operation;
- (3) adopt rules considered necessary for carrying out the department's work;
- (4) maintain records of all proceedings and official orders; and
- (5) biennially submit a report of its work to the governor and legislature, including the commission's and director's recommendations.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 3, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.0041. OPEN MEETINGS EXCEPTION: CRIMINAL INVESTIGATIONS. A discussion or deliberation of the commission regarding an ongoing criminal investigation, including a vote to issue a directive or take other action regarding the investigation, is not subject to the open meetings law, Chapter 551.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 3, eff. Sept. 1, 1999.

Sec. 411.0042. DIVISION OF RESPONSIBILITIES. The commission

shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the director and the staff of the department. Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.03, eff. September 1, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 11, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.0043. TECHNOLOGY POLICY. The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.04, eff. September 1, 2009.

Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.05, eff. September 1, 2009.

Sec. 411.005. DIRECTOR, DEPUTY DIRECTORS, AND ASSISTANT DIRECTORS. (a) The commission shall appoint a citizen of the United States as public safety director. The director serves until removed by the commission.

(b) The director may appoint, with the advice and consent of the commission, deputy directors and assistant directors who shall perform the duties that the director designates. Deputy directors and assistant directors serve until removed by the director.

(c) The commission shall select the director, and the director shall select deputy directors and assistant directors, on the basis of the person's training, experience, and qualifications for the position. The director, deputy directors, and assistant directors are entitled to annual salaries as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.06, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.07, eff. September 1, 2009.

Sec. 411.006. DUTIES OF DIRECTOR. (a) The director shall:

(1) be directly responsible to the commission for the conduct of the department's affairs;

(2) act as executive director of the department;

(3) act with the commission in an advisory capacity, without vote;

(4) adopt rules, subject to commission approval, considered necessary for the control of the department;

(5) issue commissions as law enforcement officers, under the commission's direction, to all members of the Texas

Rangers and the Texas Highway Patrol and to other officers of the department;

(6) appoint, with the advice and consent of the commission, the head of a division or bureau provided for by this chapter;

(7) quarterly, annually, and biennially submit to the commission detailed reports of the operation of the department, including statements of its expenditures; and

(8) prepare, swear to, submit to the governor, and file in the department's records a quarterly statement containing an itemized list of all money received and its source and all money spent and the purposes for which it was spent.

(b) The director or the director's designee shall provide to members of the commission and to department employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 5, eff. Sept. 1, 1999.

Sec. 411.007. OFFICERS AND EMPLOYEES. (a) Subject to the provisions of this chapter, the director may appoint, promote, reduce, suspend, or discharge any officer or employee of the department.

(b) Appointment or promotion of an officer or employee must be based on merit determined under commission rules that take into consideration the applicant's age and physical condition, if appropriate and to the extent allowed under federal law, and that take into consideration the applicant's experience and education. For promotions of commissioned officers, other than those positions covered under Section [411.0071](#), the department, with the advice and consent of the commission, shall establish processes to be consistently applied and based on merit. Each person who has an application on file for a position in the department for which an applicant must take an examination shall be given reasonable written notice of the time and place of those examinations.

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

(d) At least annually the heads of the divisions and bureaus, after due investigation, shall make a report to the director of the efficiency of each employee within the division or bureau. These reports shall be kept in the department's permanent files and shall be given proper consideration in all matters of promotion and discharge.

(e) An officer or employee of the department may not be discharged without just cause. The director shall determine whether an officer or employee is to be discharged. A commissioned officer ordered discharged may appeal to the commission, and during the appeal the officer shall be suspended without pay.

(e-1) Except as provided by Subsection (g), the department may not discharge, suspend, or demote a commissioned officer except for the violation of a specific commission rule. If the department discharges, suspends, or demotes the officer, the department shall deliver to the officer a written statement giving the reasons for the action taken. The written statement must point out each commission rule alleged to have been violated by the officer and must describe the alleged acts of the officer that the department contends are in violation of the commission rules.

(e-2) The commission shall establish necessary policies and procedures for the appointment, promotion, reduction, suspension,

and discharge of all employees.

(f) A discharged commissioned officer is entitled, on application to the commission, to a public hearing before the commission, who shall affirm or set aside the discharge. The commission shall affirm or set aside a discharge on the basis of the evidence presented. If the commission affirms the discharge, the discharged officer may seek judicial review, not later than the 90th day after the date the commission affirms the discharge, in a district court under the substantial evidence standard of review, and the officer remains suspended without pay while the case is under judicial review.

(g) A noncommissioned employee inducted into the service of the department is on probation for the first one year of service, and an officer is on probation from the date the officer is inducted into the service of the department until the anniversary of the date the officer is commissioned. At any time during the probationary period, an officer or employee may be discharged if the director, with the advice and consent of the commission, finds the officer or employee to be unsuitable for the work.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.20(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 790, Sec. 6, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1189, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 814 (S.B. [732](#)), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 955 (H.B. [1589](#)), Sec. 1, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1109 (H.B. [3805](#)), Sec. 1, eff. September 1, 2013.

Sec. 411.0071. DIRECT APPOINTMENT TO MANAGEMENT TEAM POSITIONS BY DIRECTOR. (a) The director may designate a head of a division or a position that involves working directly with the director as a management team position.

(b) The director may directly appoint a person to a position designated as a management team position under Subsection (a) under

criteria determined by the director and approved by the commission. The director's appointment of a person to a management team position or transfer of a person from a management team position to another position for which the person is qualified, as determined by the director, is not subject to Section 411.007.

(c) A person appointed to a management team position under this section, on removal from that position, shall be returned to the position the person held immediately before appointment to the management team position or to a position of equivalent rank. If a person is removed from a management team position as a result of the filing of a formal charge of misconduct, this subsection applies only if the person is exonerated for the misconduct charged.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0072. EMPLOYMENT-RELATED GRIEVANCES AND APPEALS OF DISCIPLINARY ACTIONS WITHIN THE DEPARTMENT. (a) In this section:

(1) "Disciplinary action" means discharge, suspension, or demotion.

(2) "Employment-related grievance" means an employment-related issue, other than a disciplinary action, in regard to which an employee wishes to express dissatisfaction, including promotions, leave requests, performance evaluations, transfers, benefits, working environment, shift or duty assignments, harassment, retaliation, and relationships with supervisors or other employees or any other issue the commission determines by rule.

(b) The commission shall establish procedures and practices governing the appeal of a disciplinary action within the department.

(c) The commission shall establish procedures and practices through which the department will address an employment-related grievance that include:

(1) a form on which an employee may state an employment-related grievance and request a specific corrective action;

(2) time limits for submitting a grievance and for

management to respond to a grievance;

(3) a multilevel process in which an employee's grievance is submitted to the lowest appropriate level of management, with each subsequent appeal submitted to a higher level in the chain of command;

(4) an assurance that confidentiality of all parties involved will be maintained, except to the extent that information is subject to disclosure under Section [411.00755](#) and Chapter 552, and that retaliation against an employee who files a grievance is prohibited; and

(5) a program to advertise and explain the grievance procedure to all employees.

(d) The department shall submit annually to the commission, and as part of its biennial report to the legislature required under Section [411.004](#), a report on the department's use of the employment-related grievance process under Subsection (c). The report must include:

(1) the number of grievances filed;

(2) a brief description of the subject of each grievance filed; and

(3) the final disposition of each grievance.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 35 (S.B. [740](#)), Sec. 2, eff. May 4, 2007.

Sec. 411.0073. MEDIATION OF PERSONNEL DISPUTES. (a) The commission shall establish procedures for an employee to resolve an employment-related grievance covered by Section [411.0072](#) through mediation if the employee chooses. The procedures must include mediation procedures and establish the circumstances under which mediation is appropriate for an employment-related grievance.

(b) Except for Section [2008.054](#), Chapter 2008, as added by Chapter 934, Acts of the 75th Legislature, Regular Session, 1997, does not apply to the mediation. The mediator must be trained in mediation techniques.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN APPLICANTS. (a) This section does not apply to:

(1) an applicant who is currently a peace officer of the department commissioned by the department; or

(2) an applicant for a police communications operator position who is currently employed by the department in another police communications operator position.

(b) Before commissioning an applicant as a peace officer or employing an applicant for a police communications operator position, the department shall require the applicant to submit to the administration of a polygraph examination in accordance with rules adopted under Subsection (e).

(c) The polygraph examination required by this section may only be administered by a polygraph examiner licensed under Chapter 1703, Occupations Code, who:

(1) is a peace officer commissioned by the department; or

(2) has a minimum of two years of experience conducting preemployment polygraph examinations for a law enforcement agency.

(d) The department and the polygraph examiner shall maintain the confidentiality of the results of a polygraph examination administered under this section, except that:

(1) the department and the polygraph examiner may disclose the results in accordance with Section 1703.306, Occupations Code; and

(2) notwithstanding Section 1703.306, Occupations Code, the department may disclose any admission of criminal conduct made during the course of an examination to another appropriate governmental entity.

(e) The department shall adopt reasonable rules to specify the point in the hiring process at which the department shall require a polygraph examination to be administered under this section and the manner in which the examination shall be administered. Rules relating to the administration of a polygraph examination shall be adopted in accordance with the guidelines

published by the American Polygraph Association or the American Association of Police Polygraphists.

(f) The department shall use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

Added by Acts 2005, 79th Leg., Ch. 955 (H.B. 1589), Sec. 2, eff. June 18, 2005.

Sec. 411.00741. POLYGRAPH EXAMINATIONS FOR CERTAIN OFFICERS AND EMPLOYEES. (a) The department may require a commissioned or noncommissioned officer or employee of the department to submit to the administration of a polygraph examination administered by a polygraph examiner if:

(1) the officer or employee is assigned to a position that requires the officer or employee to work with a federal agency on national security issues; and

(2) the federal agency requires that the officer or employee submit to a polygraph examination.

(b) If an officer or employee does not submit to the administration of a polygraph examination required under Subsection (a), the department may, as applicable:

(1) remove the officer or employee from an assignment to a position described by Subsection (a)(1); or

(2) refuse to assign the officer or employee to that position.

Added by Acts 2007, 80th Leg., R.S., Ch. 362 (S.B. 295), Sec. 1, eff. June 15, 2007.

Sec. 411.0075. PERSONNEL POLICIES. (a) The director or the director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all non-entry-level positions concurrently with any public posting.

(b) The director or the director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability,

sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(c) A policy statement prepared under Subsection (b) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(30), eff. June 17, 2011.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 7, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(30), eff. June 17, 2011.

Sec. 411.00755. PERSONNEL RECORDS OF COMMISSIONED OFFICERS.

(a) In this section:

(1) "Personnel record" includes any letter, memorandum, or document maintained by the department that relates to a commissioned officer of the department, including background investigations, employment applications, employment contracts, service and training records, requests for off-duty employment, birth records, reference letters, letters of recommendation, performance evaluations and counseling records, results of physical tests, polygraph questionnaires and results, proficiency tests, the results of health examinations and other medical records, workers' compensation files, the results of psychological examinations, leave requests, requests for transfers of shift or duty assignments, commendations, promotional processes, demotions,

complaints and complaint investigations, employment-related grievances, and school transcripts.

(2) "Disciplinary action" has the meaning assigned by Section [411.0072\(a\)\(1\)](#).

(b) The personnel records of a commissioned officer of the department may not be disclosed or otherwise made available to the public, except the department shall release in accordance with Chapter 552:

(1) any letter, memorandum, or document relating to:

(A) a commendation, congratulation, or honor bestowed on the officer for an action, duty, or activity that relates to the officer's official duties; and

(B) misconduct by the officer, if the letter, memorandum, or document resulted in disciplinary action;

(2) the state application for employment submitted by the officer, but not including any attachments to the application;

(3) any reference letter submitted by the officer;

(4) any letter of recommendation for the officer;

(5) any employment contract with the officer;

(6) any periodic evaluation of the officer by a supervisor;

(7) any document recording a promotion or demotion of the officer;

(8) any request for leave by the officer;

(9) any request by the officer for transfers of shift or duty assignments;

(10) any documents presented to the commission in connection with a public hearing under Section [411.007\(f\)](#);

(11) the officer's:

(A) name;

(B) age;

(C) dates of employment;

(D) positions held; and

(E) gross salary; and

(12) information about the location of the officer's department duty assignments.

(c) The department may release any personnel record of a

commissioned officer:

(1) pursuant to a subpoena or court order, including a discovery order;

(2) for use by the department in an administrative hearing; or

(3) with the written authorization of the officer who is the subject of the record.

(d) A release of information under Subsection (c) does not waive the right to assert in the future that the information is excepted from required disclosure under this section or other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 35 (S.B. 740), Sec. 1, eff. May 4, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.01, eff. September 1, 2009.

Sec. 411.0076. MINORITY RECRUITING. (a) The department shall continue to place emphasis on minority recruiting and hiring efforts for noncommissioned positions.

(b) The department's minority recruiter and equal employment opportunity positions created for personnel and equal employment opportunity matters shall continue to pertain to both commissioned and noncommissioned employees.

(c) The department by September, 1994, shall study job requirements for all noncommissioned positions and thereafter shall limit promotion-from-within only to positions where department experience is essential for reasonable job performance.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 7, eff. Sept. 1, 1993.

Sec. 411.0077. LIMITATION ON RESTRICTIONS ON CERTAIN OFF-DUTY ACTIVITIES. (a) During the period that the officer is off duty, a commissioned officer of the department is entitled to attend educational programs or courses or to engage in any outside employment that does not adversely affect the operations or the reputation of the department. The rights of a commissioned officer under this section are subject to any reasonable department requirements that the officer be accessible to the department

during off-duty periods for the possible performance of official duties.

(b) The department shall adopt reasonable guidelines relating to acceptable off-duty employment. The guidelines shall be uniformly applied to all supervisory and nonsupervisory commissioned officers.

(b-1) If the department denies approval of a commissioned officer's secondary employment or proposed secondary employment, the director or the director's designee must promptly notify the officer in writing of the specific guideline adopted under Subsection (b) on which the department's decision is based. The notice must explain why the secondary employment or proposed secondary employment is prohibited by the referenced guideline.

(c) If a commissioned officer is engaged in off-duty employment that the officer believes, in good faith, is not prohibited by a specific guideline adopted under Subsection (b), the officer is authorized to engage in the off-duty employment until the director or the director's designee informs the officer in writing that the employment is not acceptable.

Added by Acts 1989, 71st Leg., ch. 379, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 335, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 921, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.0078. USE OF UNIFORM WHILE PERFORMING CERTAIN OFF-DUTY ACTIVITIES. (a) An officer commissioned by the department may purchase from the department at fair market value a uniform to be used by the officer while providing law enforcement services for a person or entity other than the department. If an officer who purchased a uniform under this subsection leaves the service of the department for any reason, the officer shall return the uniform to the department. The department shall pay the officer the fair market value of the uniform at the time it is returned. For purposes of this subsection:

(1) a uniform does not include a handgun or other weapon; and

(2) the fair market value of a uniform is determined by the department.

(b) An officer wearing a uniform purchased under Subsection (a) may not act in a manner that adversely affects the operations or reputation of the department.

(c) The department shall adopt reasonable guidelines regarding:

(1) the types of law enforcement services for which an officer may purchase and wear a uniform under Subsection (a) and the circumstances under which the officer may perform those services; and

(2) the standards of behavior to be maintained by an officer who wears a uniform purchased under Subsection (a).

Added by Acts 1995, 74th Leg., ch. 738, Sec. 1, eff. Sept. 1, 1995.

Sec. 411.0079. WORKING CONDITIONS FOR CERTAIN PREGNANT OFFICERS. (a) The director shall make reasonable efforts to accommodate the request of a commissioned officer of the department who is determined by a physician to be partially physically restricted by a pregnancy if the request is related to the officer's working conditions.

(b) If the physician of an officer certifies that, because of the officer's pregnancy, the officer is unable to perform the duties of the officer's permanent work assignment and a temporary work assignment that the officer may perform is available, the director shall, on request of the officer, assign the officer to the temporary work assignment.

Added by Acts 2003, 78th Leg., ch. 891, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.008. DISTRICT HEADQUARTERS. The commission may establish district headquarters and stations at various places in the state and provide personnel and equipment necessary for their functioning and operation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0085. DRIVER'S LICENSE FACILITIES: PERSONNEL. The department may not assign more than 123 commissioned officers plus supervising personnel to driver's license facilities.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 4, eff. Sept. 1, 1995.

Sec. 411.009. LOCAL COOPERATION. (a) The sheriff and constables of each county and chief of police of each municipality are associate members of the department and are entitled to the rights and privileges granted to them by the department.

(b) The director may require a sheriff or other police officer in a county or municipality, within the limits of the officer's jurisdiction, to aid or assist in the performance of a duty imposed by this chapter. The officer shall comply with the order to the extent requested.

(c) The director with the advice and consent of the commission shall formulate and put into effect plans and means of cooperating with sheriffs, local police, and other peace officers throughout the state to prevent and discover crime, apprehend criminals, and promote public safety. Each local police and peace officer shall cooperate with the director in the plans.

(d) Each telegraph and telephone company and radio station operating in the state shall grant priority of service to a police agency and the department when notified that the service is urgent in the interests of the public welfare.

(e) The commissioners court of each county may furnish to the department necessary building space for establishing a branch crime detection laboratory to serve the general area of the state in which the county is located. If the county offers to furnish necessary space, the department may equip and operate the laboratory within the limits of its general authority and available appropriations. Unless the legislature has specifically directed the establishment and operation of a branch laboratory, the commission has discretion to decide whether a branch laboratory should be established or maintained.

(f) If the Commissioners Court of El Paso County furnishes without cost to the state the necessary building space, the department shall establish and operate a branch crime detection laboratory in El Paso County to serve the West Texas area, if the department determines that efficient enforcement of law requires establishment of the laboratory and sufficient funds are available in the department.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0091. SEX OFFENDER COMPLIANCE UNIT. (a) The director shall create a sex offender compliance unit to be operated by the department.

(b) The sex offender compliance unit shall investigate and arrest individuals determined to have committed a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

(c) The legislature may appropriate funds to the department from the fugitive apprehension account for the purpose of paying the costs to the department of implementing this section.

(d) The department may adopt rules as necessary to implement this section.

Added by Acts 1999, 76th Leg., ch. 150, Sec. 1, eff. Sept. 1, 1999.

Renumbered from Sec. 411.0098 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(39), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.08, eff. September 1, 2005.

Sec. 411.0095. VEHICLE THEFT CHECKPOINTS AT BORDER CROSSING. (a) The department may establish a program for the purpose of establishing border crossing checkpoints to prevent stolen vehicles, farm tractors or implements, construction equipment, aircraft, or watercraft from entering Mexico.

(b) A checkpoint may be established under Subsection (a) if the checkpoint is:

(1) located within 250 yards of a federally designated crossing facility located at or near the actual boundary between this state and Mexico;

(2) located on a public highway or street leading directly to an international border crossing;

(3) designed to stop only traffic bound for Mexico;
and

(4) operated in such a manner as to stop only vehicles, tractors or implements, equipment, aircraft, or watercraft for which law enforcement authorities have probable cause to believe is

stolen and bound for Mexico.

(c) The department may establish the border crossing checkpoint program in conjunction with local law enforcement authorities. The department and local law enforcement authorities may share the cost of staffing the checkpoints.

(d) The department shall establish procedures governing the encounter between the driver and the peace officers operating the checkpoint that ensure that any intrusion on the driver is minimized and that the inquiries made are reasonably related to the purpose of the checkpoint. A peace officer at the checkpoint may not direct a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the roadway unless the officer has reasonable suspicion or probable cause to believe that the person committed or is committing an offense. However, a peace officer may require that each motor vehicle passing through the checkpoint be diverted to a location immediately adjacent to the roadway, if desirable, to ensure safety.

(e) In this section:

(1) "Motor vehicle" and "vehicle" have the meanings assigned to those terms by Section [541.201](#), Transportation Code.

(2) "Watercraft" has the meaning assigned by Section [49.01](#), Penal Code.

Added by Acts 1993, 73rd Leg., ch. 497, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 184, Sec. 1, eff. May 23, 1995;

Acts 1997, 75th Leg., ch. 165, Sec. 30.191, eff. Sept. 1, 1997;

Acts 1999, 76th Leg., ch. 670, Sec. 1, eff. Sept. 1, 1999.

Sec. 411.0096. MEMORANDUM OF UNDERSTANDING WITH CRIMINAL JUSTICE DIVISION OF THE OFFICE OF THE GOVERNOR. (a) The department and the office of the governor, criminal justice division, by rule shall adopt a joint memorandum of understanding on coordinating the drug law enforcement efforts of the department and the criminal justice division.

(b) The memorandum of understanding shall:

(1) provide that the department shall advise the criminal justice division about the statewide drug policy planning efforts of the division;

(2) provide for representation by the department on any advisory board advising the governor about drug policy;

(3) require the criminal justice division and the department to define their respective roles relating to drug task forces;

(4) require the criminal justice division and the department to jointly determine the areas of law enforcement focus for drug task force efforts; and

(5) require the criminal justice division and the department to jointly develop guidelines and procedures to govern drug task force operations that are funded by the state.

(c) The criminal justice division and the department shall update and revise the memorandum of understanding as necessary and by rule adopt all revisions to the memorandum.

(d) Expired.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 8, eff. Sept. 1, 1993. Renumbered from Government Code Sec. 411.0095 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(13), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 184, Sec. 2, eff. May 23, 1995.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 693
(S.B. 293), Sec. 1

For text of section as added by Acts 2005, 79th Leg., Ch. 556 (H.B. 1239), Sec. 3, see other Sec. 411.0097.

Sec. 411.0097. TRANSPORTATION AND INSPECTIONS MEETING WITH REPRESENTATIVES OF MEXICAN STATES. (a) The department shall initiate efforts to meet at least quarterly with the department's counterparts in the Mexican states bordering this state to discuss issues relating to truck inspections and transportation and infrastructure involved in truck inspections and transportation.

(b) To assist the department in carrying out this section, the department shall contact the border commerce coordinator designated under Section 772.010 and the mayors of each municipality in this state in which a port of entry for land traffic is located.

(c) At least one department representative participating in a meeting under Subsection (a) must be proficient in Spanish.

(d) The department, in conjunction with the border commerce coordinator, shall develop short-range and long-range plans, including recommendations to increase bilateral relations with Mexico and expedite trade by mitigating delays in border crossing inspections for northbound truck traffic. In developing the plans, the department and coordinator shall consider information obtained from any meetings under Subsection (a). The department shall update the plan biennially.

Added by Acts 2005, 79th Leg., Ch. 693 (S.B. 293), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 28, eff. September 1, 2013.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 556
(H.B. 1239), Sec. 3

For text of section as added by Acts 2005, 79th Leg., Ch. 693 (S.B. 293), Sec. 1, see other Sec. 411.0097.

Sec. 411.0097. MULTICOUNTY DRUG TASK FORCES. (a) The department shall establish policies and procedures for multicounty drug task forces, as defined by Section 362.001, Local Government Code, and may exercise the authority necessary to ensure compliance with those policies and procedures.

(b) The department shall evaluate each multicounty drug task force with respect to whether the task force:

(1) complies with state and federal requirements, including policies and procedures established by department rule; and

(2) demonstrates effective performance outcomes.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(13), eff. September 1, 2013.

Added by Acts 2005, 79th Leg., Ch. 556 (H.B. 1239), Sec. 3, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(13), eff. September 1, 2013.

Sec. 411.0098. COORDINATION WITH DEPARTMENT OF TRANSPORTATION. (a) The department and the Texas Department of Transportation shall establish procedures to ensure effective coordination of the development of transportation infrastructure projects that affect both agencies.

(b) Procedures established under this section shall:

(1) allow each agency to provide comments and advice to the other agency on an ongoing basis regarding statewide transportation planning efforts that affect traffic law enforcement;

(2) define the role of each agency in transportation infrastructure efforts; and

(3) require the department and the Texas Department of Transportation to develop a plan for applying for and using federal funds to address infrastructure needs that affect enforcement efforts.

(c) The department and the Texas Department of Transportation shall update and revise the procedures established under this section as necessary.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 5, eff. June 17, 2011.

Sec. 411.0099. NEEDS ASSESSMENT FOR ENFORCEMENT OF COMMERCIAL MOTOR VEHICLE RULES. (a) The department shall conduct a long-term needs assessment for the enforcement of commercial motor vehicle rules that considers at a minimum:

(1) the inventory of current facilities and equipment used for enforcement, including types of scales, structures, space, and other equipment;

(2) enforcement activity, including trend information, at fixed-site facilities;

(3) staffing levels and operating hours for each facility; and

(4) needed infrastructure improvements and the associated costs and projected increase in activity that would

result from the improvements.

(b) The department shall submit a biennial report to the legislative committees with primary jurisdiction over state budgetary matters and the Texas Transportation Commission that reflects the results of the needs assessment conducted under Subsection (a). The report shall be submitted to the legislature in conjunction with the department's legislative appropriations request.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.010. ASSISTANCE OF STATE AGENCIES. The attorney general, the Texas Department of Transportation, the Texas Department of Health, and all other departments of state government shall cooperate with the department in the execution of this chapter and the enforcement of state laws concerning public safety and crime prevention and detection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(34), eff. Sept. 1, 1995.

Sec. 411.011. ASSISTANCE OF STATE EDUCATIONAL INSTITUTIONS. (a) The University of Texas and all other state-supported educational institutions shall:

(1) cooperate with the department in carrying out this chapter;

(2) assist in the giving of instruction in the training schools conducted by the bureau of education; and

(3) assist the bureau of identification and records in making necessary chemical tests and analyses and in making statistical analyses, charts, and reports of law enforcement and violations of law.

(b) The commission and the president of the educational institution called on for assistance shall agree on and arrange the nature and extent of the assistance.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0111. PROVISION OF CERTAIN INFORMATION TO COMPTROLLER. (a) Not later than June 1 of every fifth year, the

department shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, date of birth, and driver's license or state identification number of each person about whom the department has such information in its records.

(b) Information provided to the comptroller under this section is confidential and may not be disclosed to the public.

(c) The department shall provide the information in the format prescribed by rule of the comptroller.

Added by Acts 2009, 81st Leg., R.S., Ch. 232 (S.B. 1589), Sec. 5, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 47.01, eff. September 28, 2011.

Sec. 411.012. COMMAND BY GOVERNOR. The governor may assume command and direct the activities of the commission and department during a public disaster, riot, insurrection, or formation of a dangerous resistance to enforcement of law, or to perform the governor's constitutional duty to enforce law. The governor shall use the personnel of the Texas Highway Patrol only if the other personnel of the department are unable to cope with the emergency. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.013. EXPENDITURES, DONATIONS, AND APPROPRIATIONS.

(a) Repealed by Acts 1997, 75th Leg., ch. 1206, Sec. 28, eff. Sept. 1, 1997.

(b) The department may accept donations of money and other real or personal property from any individual, group, association, corporation, or governmental agency and may use those donations for any purpose designated by the donor that furthers the exercise of duties imposed by law on the department.

(c) Appropriations for the Texas Highway Patrol must be made from the state highway fund.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(31), eff. June 17, 2011.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 4, Sec. 2.21(a), eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 790, Sec. 9, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1206, Sec. 28, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(31), eff. June 17, 2011.

Sec. 411.0131. USE OF SEIZED AND FORFEITED ASSETS. (a) The commission by rule shall establish a process under which the commission approves all of the department's dispositions of assets seized or forfeited under state or federal law and received by or appropriated to the department. The commission shall adopt rules under this section in accordance with Chapter 2001. Before approving a disposition, the commission shall consider how the disposition supports priorities established in the department's strategic plan and whether the disposition complies with applicable federal guidelines.

(b) The department shall file annually with the governor and the presiding officer of each house of the legislature a report on seized and forfeited assets. The report must include:

(1) a summary of receipts, dispositions, and fund balances for the fiscal year derived from both federal and state sources;

(2) regarding receipts, the court in which each case involving seized or forfeited assets was adjudicated, the nature and value of the assets, and the specific intended use of the assets;

(3) regarding dispositions, the departmental control number and category, the division making the request, the specific item and amount requested, the amount the commission approved, and the actual amount expended per item; and

(4) regarding planned dispositions, a description of the broad categories of anticipated dispositions and how they relate to the department's strategic plan.

(c) The department shall, within 30 days after the end of each quarter, report and justify any dispositions of seized or

forfeited assets during the quarter that:

(1) differ from the planned dispositions reported under Subsection (b); and

(2) were used for a purpose not considered a priority in the department's strategic plan or not required by law or applicable federal guidelines.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 7, eff. Sept. 1, 1999.

Sec. 411.0132. USE OF FUNDS TO SUPPORT PEACE OFFICER TRAINING. The department, subject to director approval, may use appropriated funds to purchase food and beverages for training functions required of peace officers of the department.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1270 (H.B. 78), Sec. 2, eff. June 17, 2011.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 1793, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.0133. MISSING OR EXPLOITED CHILDREN PREVENTION GRANTS. (a) In this section, "nonprofit organization" has the meaning assigned by Section 403.351.

(b) This section applies to a nonprofit organization that is formed to offer programs and provide information to parents or other legal custodians, children, schools, public officials, organizations serving youths, nonprofit organizations, and the general public concerning child safety and Internet safety and the prevention of child abductions and child sexual exploitation.

(c) The department may award a grant to a nonprofit organization described by Subsection (b) that is operating in this state to provide programs and information described by that subsection to assist the department in the performance of the department's duties related to missing or exploited children, including any duty related to the missing children and missing persons information clearinghouse under Chapter 63, Code of Criminal Procedure.

(d) The department may adopt rules to implement this

section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 571 (S.B. 742), Sec. 8, eff. September 1, 2013.

Sec. 411.0135. METHOD OF PAYMENT OF FEES AND CHARGES. (a) The department may adopt rules regarding the method of payment of any fee or charge that is imposed or collected by the department.

(b) Rules adopted under Subsection (a) may authorize payment, under circumstances prescribed by the department:

(1) in person, by mail, by telephone, or over the Internet;

(2) by means of electronic funds transfer; or

(3) by means of a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the department.

(c) The department by rule may require, in addition to the amount of the fee or charge, the payment of:

(1) a discount, convenience, or service charge for a payment transaction; or

(2) a service charge in connection with the payment of a payment transaction that is dishonored or refused for lack of funds or insufficient funds.

Added by Acts 2001, 77th Leg., ch. 866, Sec. 3, eff. Sept. 1, 2001.

Sec. 411.014. BUILDINGS AND EQUIPMENT. (a) The state shall provide the necessary buildings, offices, and quarters for the department and its officers and employees in Austin and other places in the state where district headquarters are located. The state shall provide furniture, fixtures, automobiles, motorcycles, horses, firearms, ammunition, uniforms, appliances, and other materials necessary to the proper functioning and operation of the department.

(b) The department's physical plant in Austin is under the department's control and management for the use and benefit of the state in the discharge of the official duties of the department.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.015. ORGANIZATION. (a) Except as provided by Subsection (b), the designation by this chapter of certain divisions and division chiefs is not mandatory and this chapter does not prevent the commission from reorganization or consolidation within the department in the interest of more efficient and economical management and direction of the department. The director, with the commission's approval, may organize and maintain within the department divisions of service considered necessary for the efficient conduct of the department's work.

(b) The division relating to the Texas Rangers may not be abolished.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.08, eff. September 1, 2009.

Sec. 411.016. SUPPLEMENTAL PAY. (a) This section applies to an officer commissioned by the department who is not employed in a position that the director has declared to be administrative, executive, or professional.

(b) If, during a calendar week, the total number of hours worked by a commissioned officer plus the number of hours of leave taken for which the officer is entitled to compensation, including approved sick leave, vacation, holiday, holiday compensatory time, emergency leave, administrative leave, and jury duty, equal more than 40 hours, the excess is overtime. For each calendar month, the overtime for each week ending during that month shall be totaled. If the total overtime for the month exceeds eight hours, the officer may receive, in addition to the officer's regular monthly salary, a supplement determined as follows:

(1) a commissioned officer who accumulates more than eight hours but less than 16 hours of overtime in a calendar month may receive five percent of the officer's regular monthly salary;

(2) a commissioned officer who accumulated 16 or more hours but less than 32 hours of overtime in a calendar month may

receive 10 percent of the officer's regular monthly salary; and

(3) a commissioned officer who accumulated 32 or more hours of overtime in a calendar month may receive 15 percent of the officer's regular monthly salary.

(c) The formula prescribed by Subsection (b) is the exclusive method of computing state compensation for overtime entitlements. This section applies only to the computation of overtime entitlements and does not apply to the method of compensating a commissioned officer for working on regularly scheduled state holidays.

(d) A commissioned officer may receive a supplement paid by the federal government earned while working on a project funded by the federal government, and that supplement may not be considered in determining a commissioned officer's entitlement under this section.

(e) If the funds appropriated to the department to provide supplemental pay are insufficient to pay all earned overtime entitlements, the director may provide for compensatory time to be taken during the biennium in which the entitlements are earned.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0161. DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. (a) The director shall allow a department employee to voluntarily transfer to a legislative leave pool up to eight hours of compensatory time or annual leave per year earned by the employee.

(b) The director or designee shall administer the legislative leave pool.

(c) The Public Safety Commission shall adopt rules and prescribe procedures relating to the operation of the legislative leave pool.

(d) The director or designee shall credit the legislative leave pool with the amount of time contributed by an employee and deduct a corresponding amount of time from the employee's earned compensatory time or annual leave as if the employee had used the time for personal purposes.

(e) An employee is entitled to use time contributed to the

legislative leave pool if the employee uses the time for legislative leave on behalf of a law enforcement association of at least 1,000 active or retired members governed by a board of directors.

(f) The director of the pool administrator shall transfer time from the pool to the employee and credit the time to the employee.

(g) An employee may only withdraw time from the legislative leave pool in coordination and with the consent of the president or designee of the law enforcement association described in Subsection (e), and may not draw more than 80 hours of time from the pool in a 160-hours work cycle with the maximum time taken not to exceed 480 hours per fiscal year.

(h) In addition to Subsection (g), the use of any time from the legislative leave pool must also be in accordance with rules adopted by the Public Safety Commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.02, eff. September 1, 2009.

Sec. 411.0162. SALARIES FOR CERTAIN TROOPERS. (a) Notwithstanding any other provision of law and subject to the availability of money appropriated for that purpose, the department may pay its employees classified as Trooper Trainee, Probationary Trooper, and Trooper I at rates that exceed the maximum rates designated in Salary Schedule C of the position classification schedule prescribed by the General Appropriations Act for the state fiscal biennium ending August 31, 2013, for that position by up to 10 percent.

(b) Notwithstanding Subsection (a) or any other provision of law and subject to the availability of money appropriated for that purpose, in the state fiscal year beginning September 1, 2013, the department may pay its employees classified as Trooper Trainee, Probationary Trooper, and Trooper I at rates that exceed the maximum rates designated in Salary Schedule C of the position classification schedule prescribed by the General Appropriations Act for the state fiscal biennium ending August 31, 2013, for that position by up to five percent. This subsection expires September

1, 2014.

Added by Acts 2013, 83rd Leg., R.S., Ch. 680 (H.B. 2100), Sec. 1, eff. September 1, 2013.

Sec. 411.017. UNAUTHORIZED ACTS INVOLVING DEPARTMENT NAME, INSIGNIA, OR DIVISION NAME. (a) A person commits an offense if, without the director's authorization, the person:

(1) manufactures, sells, or possesses a badge, identification card, or other item bearing a department insignia or an insignia deceptively similar to the department's;

(2) makes a copy or likeness of a badge, identification card, or department insignia, with intent to use or allow another to use the copy or likeness to produce an item bearing the department insignia or an insignia deceptively similar to the department's; or

(3) uses the term "Texas Department of Public Safety," "Department of Public Safety," "Texas Ranger," or "Texas Highway Patrol" in connection with an object, with the intent to create the appearance that the object belongs to or is being used by the department.

(b) In this section, "department insignia" means an insignia or design prescribed by the director for use by officers and employees of the department in connection with their official activities. An insignia is deceptively similar to the department's if it is not prescribed by the department but a reasonable person would presume that it was prescribed by the department.

(c) A district or county court, on application of the attorney general or of the district attorney or prosecuting attorney performing the duties of district attorney for the district in which the court is located, may enjoin a violation or threatened violation of this section on a showing that a violation has occurred or is likely to occur.

(d) It is an affirmative defense to a prosecution under this section that the object is used exclusively:

(1) for decorative purposes, maintained or preserved in a decorative state, and not offered for sale; or

(2) in an artistic or dramatic presentation, and

before the use of the object the producer of the presentation notifies the director in writing of the intended use, the location where the use will occur, and the period during which the use will occur.

(e) An offense under this section is a Class A misdemeanor, unless the object is shipped by United States mail or by any type of commercial carrier from a point outside the State of Texas to a point inside the state if the shipper or his agent has been sent notification by registered United States mail of this section prior to the shipment, in which event the offense is a felony of the third degree.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 496, Sec. 1, eff. Sept. 1, 1989.

Sec. 411.018. HAZARDOUS MATERIALS. (a) The director shall adopt rules relating to the reporting of all transportation incidents involving releases of reportable quantities of hazardous materials occurring on public roads or railroads that are not on a private industrial site. The rules must be consistent with federal rules relating to hazardous materials adopted under federal law. The director may adopt all or part of the federal hazardous materials rules by reference.

(b) The department by rule shall require that all carriers of hazardous materials report all incidents involving a release of reportable quantities of hazardous materials to the department.

(c) The department shall serve as the central repository of statistical information relating to incidents involving release of hazardous materials.

(d) The department is responsible for the on-site coordination of all hazardous materials transportation emergencies. The director shall adopt necessary rules to implement this subsection.

Added by Acts 1989, 71st Leg., ch. 4, Sec. 2.22(a), eff. Sept. 1, 1989.

Sec. 411.019. TOLL-FREE NUMBER. (a) The department shall provide a 24-hour toll-free telephone number for use by the public

in reporting traffic offenses, including driving while intoxicated, suspected criminal activity, and traffic accidents and other emergencies.

(b) On receiving a report of an offense, the department shall contact the law enforcement agency of the jurisdiction where the reported suspected driver or incident was observed or shall dispatch department officers.

Added by Acts 1989, 71st Leg., ch. 1251, Sec. 1, eff. June 16, 1989.

Sec. 411.0195. PUBLIC COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 5.15, eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 5.15, eff. September 1, 2009.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 10, eff. Sept. 1, 1993.
Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 5.09, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 5.15, eff. September 1, 2009.

Sec. 411.0196. ACCESS TO PROGRAMS. The department shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the

department's programs.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 10, eff. Sept. 1, 1993.

Sec. 411.0197. ADVISORY OVERSIGHT COMMUNITY OUTREACH COMMITTEE. (a) The commission shall establish an Advisory Oversight Community Outreach Committee in the department and may adopt rules for the implementation and operation of the committee. The committee shall meet at the times and places specified by commission rule or at the call of the presiding officer or any two members.

(b) The commission shall appoint the members of the committee, which must include border crossing bridge owners, persons serving in the capacity of director of entities governing ports of entry, community leaders, planning developers, mayors, or persons designated by mayors, of the major municipalities in the area of the border of this state and the United Mexican States, representatives of law enforcement agencies, and representatives of the general public.

(c) The commission shall designate the presiding officer of the committee from among the committee's members. The presiding officer serves at the will of the commission.

(d) The committee shall:

(1) document to the commission trade-related incidents involving department personnel;

(2) develop recommendations and strategies to improve community relations, department personnel conduct, and the truck inspection process at this state's ports of entry; and

(3) act as ombudsman between the department and the communities located and residents residing in the area of the border of this state and the United Mexican States and between the department and the department's personnel.

(e) In determining action to be taken on the information and recommendations received from the committee, the commission shall consider the importance of trade with the United Mexican States, the safety of the traveling public, preservation of the highway system, applicable federal laws and regulations, and the concerns expressed by communities.

(f) Not later than January 1 of each odd-numbered year the commission shall submit to the lieutenant governor, speaker of the house of representatives, and each other member of the legislature a report documenting the committee's recommendations and comments, incident reports received by the committee, and the actions taken by the commission and department to address those matters.

Added by Acts 2005, 79th Leg., Ch. 1215 (H.B. 925), Sec. 1, eff. September 1, 2005.

Sec. 411.020. PURCHASE OF FIREARM FROM DEPARTMENT BY OFFICER. (a) A commissioned officer of the department may purchase for an amount set by the department, not to exceed fair market value, a firearm issued to the officer by the department if the firearm is not listed as a prohibited weapon under Section 46.05, Penal Code, and if the firearm is retired by the department for replacement purposes.

(b) The department may adopt rules for the sale of a retired firearm to an officer of the department.

Added by Acts 1991, 72nd Leg., ch. 37, Sec. 1, eff. April 19, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.35, eff. Sept. 1, 1995.

Sec. 411.0201. REPRODUCTION OF RECORDS. (a) except as provided by Subsection (b), the department may photograph, microphotograph, or film any record in connection with the issuance of a driver's license or commercial driver's license and any record of any division of the department.

(b) None of the following may be photographed or filmed to dispose of the original record:

(1) an original fingerprint card;

(2) any evidence submitted in connection with a criminal case; or

(3) a confession or statement made by the defendant in a criminal case.

(c) The department may create original records in micrographic form on media, such as computer output microfilm.

(d) A photograph, microphotograph, or film of a record

reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

(e) The director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

(f) Certified records shall be furnished to any person who is authorized by law to receive them.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 6, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 3, eff. Sept. 1, 1997.

Sec. 411.0202. DISPOSAL OF RECORDS. (a) Unless otherwise required by law and subject to Chapter 441, the department may dispose of or destroy records that the department determines are not required for the performance of the department's duties and functions.

(b) The department may dispose of or destroy a defendant's original fingerprint card if:

(1) the department has on file and retains another original fingerprint card for the defendant; or

(2) the defendant has attained the age of 80.

Added by Acts 1995, 74th Leg., ch. 165, Sec. 7, eff. Sept. 1, 1995.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1287](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.0205. CRIME LABORATORY ACCREDITATION PROCESS. (a) In this section, "crime laboratory," "forensic analysis," and "physical evidence" have the meanings assigned by Article [38.35](#), Code of Criminal Procedure.

(b) The director by rule:

(1) shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings; and

(2) may modify or remove a crime laboratory exemption under this section if the director determines that the underlying reason for exemption no longer applies.

(b-1) As part of the accreditation process established and implemented under Subsection (b), the director may:

(1) establish minimum standards that relate to the timely production of a forensic analysis to the agency requesting the analysis and that are consistent with this article and code;

(2) validate or approve specific forensic methods or methodologies; and

(3) establish procedures, policies, and practices to improve the quality of forensic analyses conducted in this state.

(b-2) The director may require that a laboratory, facility, or entity required to be accredited under this section pay any costs incurred to ensure compliance with the accreditation process.

(b-3) The director shall require that a laboratory, facility, or entity that must be accredited under this section, as part of the accreditation process, agree to consent to any request for cooperation by the Texas Forensic Science Commission that is made as part of the exercise of the commission's duties under Article 38.01, Code of Criminal Procedure.

(c) The director by rule may exempt from the accreditation process established under Subsection (b) a crime laboratory conducting a forensic analysis or a type of analysis, examination, or test if the director determines that:

(1) independent accreditation is unavailable or inappropriate for the laboratory or the type of analysis, examination, or test performed by the laboratory;

(2) the type of analysis, examination, or test performed by the laboratory is admissible under a well-established rule of evidence or a statute other than Article 38.35, Code of Criminal Procedure;

(3) the type of analysis, examination, or test

performed by the laboratory is routinely conducted outside of a crime laboratory by a person other than an employee of the crime laboratory; or

(4) the laboratory:

(A) is located outside this state or, if located in this state, is operated by a governmental entity other than the state or a political subdivision of the state; and

(B) was accredited at the time of the analysis under an accreditation process with standards that meet or exceed the relevant standards of the process established by the director under Subsection (b).

(d) The director may at any reasonable time enter and inspect the premises or audit the records, reports, procedures, or other quality assurance matters of a crime laboratory that is accredited or seeking accreditation under this section.

(e) The director may collect costs incurred under this section for accrediting, inspecting, or auditing a crime laboratory.

(f) If the director provides a copy of an audit or other report made under this section, the director may charge \$6 for the copy, in addition to any other cost permitted under Chapter 552 or a rule adopted under that chapter.

(g) Funds collected under this section shall be deposited in the state treasury to the credit of the state highway fund, and money deposited to the state highway fund under this section may be used only to defray the cost of administering this section or Subchapter G.

Added by Acts 2003, 78th Leg., ch. 698, Sec. 4, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 3, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 782 (S.B. [1238](#)), Sec. 6, eff. June 14, 2013.

Sec. 411.0206. ABATEMENT OR DEFERRAL FOR VICTIMS OF IDENTITY THEFT. (a) In this section:

(1) "License" means a license, certificate, permit, or

other authorization issued by the department.

(2) "Victim of identity theft" means an individual who has filed a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, other than a person who is convicted of an offense under Section 37.08, Penal Code, with respect to that complaint.

(b) The department may abate or defer a mandatory suspension or revocation of a license if the license holder presents evidence acceptable to the department that:

(1) the license holder is the victim of identity theft; and

(2) the person against whom a criminal complaint alleging the commission of an offense under Section 32.51, Penal Code, has been filed, and not the license holder, engaged in the act or omission that mandates the suspension or revocation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 796 (H.B. 2256), Sec. 1, eff. June 17, 2011.

Sec. 411.0207. PUBLIC CORRUPTION UNIT. (a) In this section, "organized criminal activity" means conduct that constitutes an offense under Section 71.02, Penal Code.

(b) A public corruption unit is created within the department to investigate and assist in the management of allegations of participation in organized criminal activity by:

(1) an individual elected, appointed, or employed to serve as a peace officer for a governmental entity of this state under Article 2.12, Code of Criminal Procedure; or

(2) a federal law enforcement officer while performing duties in this state.

(c) The unit shall:

(1) assist district attorneys and county attorneys in the investigation and prosecution of allegations described by Subsection (b);

(2) if requested by the agency, assist a state or local law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(3) assist the United States Department of Justice or

any other appropriate federal department or agency in the investigation and prosecution of allegations described by Subsection (b);

(4) if requested by the agency, assist a federal law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(5) serve as a clearinghouse for information relating to the investigation and prosecution of allegations described by Subsection (b); and

(6) report to the highest-ranking officer of the Texas Rangers division of the department.

(d) On written approval of the director or of the chair of the commission, the highest-ranking officer of the Texas Rangers division of the department may initiate an investigation of an allegation of participation in organized criminal activity by a law enforcement officer described by Subsection (b)(1). Written approval under this subsection must be based on cause.

(e) To the extent allowed by law, a state or local law enforcement agency shall cooperate with the public corruption unit by providing information requested by the unit as necessary to carry out the purposes of this section. Information described by this subsection is excepted from required disclosure under Chapter 552 in the manner provided by Section 552.108.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 41, eff. September 1, 2009.

SUBCHAPTER B. TEXAS RANGERS

Sec. 411.021. COMPOSITION. The Texas Rangers are a major division of the department consisting of the number of rangers authorized by the legislature. The highest ranking officer of the Texas Rangers is responsible to and reports directly to the director. Officers are entitled to compensation as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 11, eff. Sept. 1, 1993.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 1690, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.022. AUTHORITY OF OFFICERS. (a) An officer of the Texas Rangers is governed by the law regulating and defining the powers and duties of sheriffs performing similar duties, except that the officer may make arrests, execute process in a criminal case in any county and, if specially directed by the judge of a court of record, execute process in a civil case.

(b) An officer of the Texas Rangers who arrests a person charged with a criminal offense shall immediately convey the person to the proper officer of the county where the person is charged and shall obtain a receipt. The state shall pay all necessary expenses incurred under this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.0221. QUALIFICATIONS. (a) To be commissioned as an officer of the Texas Rangers, a person must:

(1) have at least eight years of experience as a full-time, paid peace officer, including at least four years of experience in the department; and

(2) be a commissioned member of the department.

(b) The Texas Rangers is an equal employment opportunity employer; all personnel decisions shall be made without regard to race, color, sex, national origin, or religion.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Sec. 411.0222. ELIGIBILITY FOR PROMOTION. Except as provided by Section 411.0223, an officer of the Texas Rangers is eligible for promotion only if the officer has served in the next lower position for at least two years before the date of promotion.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Sec. 411.0223. APPOINTMENT OF HIGHEST-RANKING OFFICERS.

(a) Except as provided by Subsection (c), an officer is eligible for appointment by the director to chief of the Texas Rangers only

if the officer has at least five years of supervisory experience as a commissioned member of the Texas Rangers.

(b) Except as provided by Subsection (c), an officer is eligible for appointment by the director to assistant chief of the Texas Rangers only if the officer has at least four years of supervisory experience as a commissioned member of the Texas Rangers.

(c) If there are fewer than two qualified officers for appointment to chief or assistant chief of the Texas Rangers, the director may appoint an officer to the position of chief or assistant chief of the Texas Rangers only if the officer has at least two years of supervisory experience as a commissioned member of the Texas Rangers.

(d) Except as provided by Subsection (e), an officer is eligible for appointment by the director to the rank of major of the Texas Rangers only if the officer has at least one year of supervisory experience as a captain of the Texas Rangers.

(e) If there are fewer than two qualified captains for appointment to the rank of major of the Texas Rangers, the director may appoint a lieutenant to the position of major of the Texas Rangers only if the lieutenant has at least two years of supervisory experience as a commissioned member of the Texas Rangers.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 12, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1082 (H.B. [3412](#)), Sec. 1, eff. September 1, 2013.

Sec. 411.023. SPECIAL RANGERS. (a) The commission may appoint as special rangers honorably retired commissioned officers of the department and not more than 300 other persons.

(b) A special ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle. A special ranger is not connected with a ranger company or uniformed unit of the

department.

(c) Before issuance of a commission to a special ranger the person shall enter into a good and sufficient bond executed by a surety company authorized to do business in the state in the amount of \$2,500, approved by the director, and indemnifying all persons against damages resulting from an unlawful act of the special ranger.

(d) A special ranger is not entitled to compensation from the state for service as a special ranger.

(e) A special ranger commission expires January 1 of the first odd-numbered year after appointment. The director may revoke a special ranger commission at any time for cause.

(f) The commission shall authorize a badge for persons appointed as special rangers under this section that is distinct in appearance from the badge authorized for special Texas Rangers under Section 411.024 and from any badge issued to a Texas Ranger. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 9, eff. Sept. 1, 1999.

Sec. 411.024. SPECIAL TEXAS RANGERS. (a) The commission may appoint as a special Texas Ranger an honorably retired or retiring commissioned officer of the department whose position immediately preceding retirement is an officer of the Texas Rangers.

(b) A special Texas Ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special Texas Ranger may not enforce a law except one designed to protect life and property and may not enforce a law regulating the use of a state highway by a motor vehicle. A special Texas Ranger is not connected with a ranger company or uniformed unit of the department.

(c) Before issuance of a commission to a special Texas Ranger the person shall enter into a good and sufficient bond executed by a surety company authorized to do business in the state in the amount of \$2,500, approved by the director, and indemnifying all persons against damages resulting from an unlawful act of the

special Texas Ranger.

(d) A special Texas Ranger is not entitled to compensation from the state for service as a special Texas Ranger.

(e) A special Texas Ranger commission expires January 1 of the first odd-numbered year after appointment. The commission may revoke the commission of a special Texas Ranger who commits a violation of a rule of the department for which an active officer of the Texas Rangers would be discharged.

(f) The commission shall authorize a badge for persons appointed as special Texas Rangers under this section that is distinct in appearance from the badge authorized for special rangers under Section [411.023](#).

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 10, eff. Sept. 1, 1999.

SUBCHAPTER C. TEXAS HIGHWAY PATROL

Sec. 411.031. COMPOSITION. The Texas Highway Patrol is a division of the department consisting of the chief patrol officer, the number of captains, sergeants, and privates authorized by the legislature, and administrative and clerical help as the commission determines. A person's literary attainment does not preclude the person's appointment as a private if the person is otherwise qualified. The chief patrol officer is the executive officer of the patrol. Officers are entitled to compensation as provided by the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.032. POWERS AND DUTIES OF OFFICERS. In addition to the powers and duties provided by law for the officers, noncommissioned officers, and enlisted persons of the Texas Highway Patrol, they have the powers and authority provided by law for members of the Texas Rangers force.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. ADMINISTRATIVE DIVISION

Sec. 411.041. COMPOSITION. The administrative division of the department consists of the bureaus of identification and records, communications, intelligence, and training. The director, with the advice and consent of the commission, shall employ chiefs, experts, operators, instructors, and assistants as necessary for the operation of this division and its bureaus. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 147 and S.B. 737, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 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 arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or 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, including information that enables the bureau to create a statistical breakdown of:

(A) offenses in which family violence was involved;

(B) offenses under Sections 22.011 and 22.021, Penal Code; and

(C) offenses under Sections 20A.02 and 43.05, Penal Code;

(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;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense;

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders, including pertinent information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, or stalking case. Information in the law enforcement information system relating to an active protective order shall include:

(A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

(C) the name and county of residence of the person protected by the order;

(D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;

(E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code;

(F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed;

(G) the conditions of bond imposed on the person to whom the order is directed, if any, for the protection of a victim in any family violence, sexual assault or abuse, or stalking case; and

(H) the date the order expires;

(7) grant access to criminal history record information in the manner authorized under Subchapter F;

(8) collect and disseminate information regarding offenders with mental impairments in compliance with Chapter 614, Health and Safety Code; and

(9) record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system that serves:

(A) as the record creation point for criminal history record information and juvenile justice information maintained by the state; and

(B) as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

(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.

(d) The department may charge each person and charge each entity or agency that is not primarily a criminal justice agency a fee for processing inquiries for information that is not criminal history record information regarding a person. A person, entity, or agency that receives information must be entitled to receive the information under state or federal statutes, rules, regulations, or case law. The department may charge actual costs for processing all inquiries under this section.

(e) The department shall deposit all fees collected under this section in the operators and chauffeurs license fund.

(f) The department may keep any record or other information submitted to the department under this section, unless otherwise prohibited by law.

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records;

(3) reports of criminal history information submitted to the department;

(4) active protective orders and reporting procedures that ensure that information relating to the issuance and dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system;

(5) the collection of information described by Subsection (h);

(6) a system for providing criminal history record information through the criminal history clearinghouse under Section [411.0845](#); and

(7) active conditions of bond imposed on a defendant for the protection of a victim in any family violence, sexual assault or abuse, or stalking case, and reporting procedures that ensure that information relating to the issuance, modification, or removal of the conditions of bond is reported, at the time of the issuance, modification, or removal, to:

(A) the victim or, if the victim is deceased, a close relative of the victim; and

(B) the local law enforcement agency for entry by the local law enforcement agency in the state's law enforcement information system.

(h) Information collected to perform a statistical breakdown of offenses under Sections [22.011](#) and [22.021](#), Penal Code, as required by Subsection (b)(2) must include information indicating the specific offense committed and information regarding:

(1) the victim;

(2) the offender and the offender's relationship to

the victim;

(3) any weapons used or exhibited in the commission of the offense; and

(4) any injuries sustained by the victim.

(i) A law enforcement agency shall report offenses under Section [22.011](#) or [22.021](#), Penal Code, to the department in the form and manner and at regular intervals as prescribed by rules adopted by the department. The report must include the information described by Subsection (h).

(j) The department may contract with private vendors as necessary in implementing this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 490, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1225, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 5.01, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 7.03, 7.04, eff. Dec. 1, 1991; Acts 1993, 73rd Leg., ch. 790, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 324, Sec. 2, 3, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 974, Sec. 38, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.751, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 70 (H.B. [76](#)), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1306 (S.B. [839](#)), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. [9](#)), Sec. 15, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 11.002, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 11.003, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 27.001(22), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 10.01, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. [2014](#)), Sec. 3.02, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 760 (S.B. 893), Sec. 3, eff. September 1, 2013.

Sec. 411.0421. INFORMATION REGARDING FRAUDULENT USE OF IDENTIFICATION. (a) The department shall create a record of each individual who:

(1) in conjunction with the attorney representing the state in the prosecution of felonies in the county in which the individual resides and the sheriff of that county or, if the individual is not a resident of a county in this state, the attorney and sheriff in a county that the individual frequents, signs a declaration that the individual's identity has been used by another person to frustrate proper law enforcement without the individual's consent; and

(2) files that declaration with the department.

(b) A declaration filed under this section must include:

(1) the individual's name, social security number, driver's license number, date of birth, and other identifying data requested by the department;

(2) a statement that the individual's name, social security number, driver's license number, date of birth, or other data has been used by another person to frustrate proper law enforcement; and

(3) a name, word, number, letter, or combination of 30 or fewer characters designated by the individual as a unique password to verify the individual's identity.

(c) On receipt of a declaration under this section, the department shall create a record of the individual's identity, including a record of the individual's unique password, in the criminal history record information maintained by the department under Subchapter F. The department shall ensure that this record, including the unique password, is available online to any entity authorized to receive information from the department under Subchapter F.

Added by Acts 1999, 76th Leg., ch. 1334, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 945, Sec. 4, eff. June 14, 2001.

Sec. 411.043. BUREAU OF COMMUNICATIONS. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of communications.

(b) The bureau of communications shall:

(1) provide for the rapid exchange between law enforcement agencies of the state, counties, municipalities, other states, and the federal government of information concerning the commission of crimes and the detection of violators of the law; and

(2) establish and operate, in coordination with state, county, and municipal law enforcement agencies, a state roads blockade system.

(c) If funds are provided, the bureau of communications may install and operate a police radio broadcasting system for broadcasting information concerning the activities of violators of the law and for directing the activities and functions of the law enforcement agencies of the state, counties, and municipalities. The bureau shall cooperate with county and municipal police authorities and police radio stations in this state and other states.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.044. BUREAU OF INTELLIGENCE. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of intelligence.

(b) The bureau of intelligence shall:

(1) accumulate and analyze, with the aid of the other department divisions and bureaus, information of crime activities in the state and make the information available for use of the department and county and municipal law enforcement agencies; and

(2) aid in the detection and apprehension of violators of the law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.045. BUREAU OF TRAINING. (a) The director, with the advice and consent of the commission, shall appoint the chief of the bureau of training. The chief must have substantial experience

in law enforcement and in instruction of law enforcement officers.

(b) The bureau of training shall:

(1) establish and operate schools for training department personnel in their duties and functions;

(2) establish and operate schools for training county and municipal police officers who are selected to attend the schools by the authorities of the law enforcement agencies that employ them; and

(3) establish and carry out a comprehensive plan for the education of citizens of this state in matters of public safety and crime prevention and detection.

(c) The chief of the bureau of training shall organize schools for department members and other peace officers and give instruction in the schools.

(d) The adjutant general shall provide, for use of the bureau of training in conducting its training schools, suitable buildings, land, and state-owned equipment at Camp Mabry in Austin. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 411.046. HATE CRIME REPORTING. (a) The bureau of identification and records shall establish and maintain a central repository for the collection and analysis of information relating to crimes that are motivated by prejudice, hatred, or advocacy of violence, including, but not limited to, incidents for which statistics are or were kept under Public Law No. 101-275, as that law existed on July 3, 1996. On establishing the repository, the department shall develop a procedure to monitor, record, classify, and analyze information relating to incidents directed against persons and property that are apparently motivated by the factors listed in this subsection.

(b) Local law enforcement agencies shall report offenses described by Subsection (a) in the form and manner and at regular intervals as prescribed by rules adopted by the department. The department shall summarize and analyze information received under this subsection and file an annual report with the governor and legislature containing the summary and analysis.

(c) The department shall make information, records, and

statistics collected under this section available to any local enforcement agency, political subdivision, or state agency to the extent the information is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. This subsection may not be construed to limit access to information, records, or statistics which access is permitted by other law. Dissemination of the names of defendants and victims is subject to all confidentiality requirements otherwise imposed by law.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 21A.01, eff. Oct. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 11, eff. Sept. 1, 1999.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.047. REPORTING RELATED TO CONCEALED HANDGUN INCIDENTS. (a) The department may maintain statistics on its website related to responses by law enforcement agencies to incidents in which a person licensed to carry a handgun under Subchapter H is convicted of an offense only if the offense is prohibited under Subchapter H or under Title 5, Chapter 29, Chapter 46, or Section 30.02, Penal Code.

(b) Such statistics shall be drawn and reported annually from the Department of Public Safety computerized criminal history file on persons 21 years of age and older and shall be compared in numerical and graphical format to all like offenses committed in the state for the reporting period as a percentage of the total of such reported offenses.

(c) The department by rule shall adopt procedures for local law enforcement to make reports to the department described by Subsection (a).

Added by Acts 1995, 74th Leg., ch. 229, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 10.06, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 12, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1146, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.048. THREATS AGAINST PEACE OFFICERS AND DETENTION OFFICERS. (a) In this section:

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

(2) "Peace officer" has the meaning assigned by Section 1.07, Penal Code.

(3) "Detention officer" means a person who is employed to ensure the safekeeping of prisoners and the security of a municipal or county jail.

(b) The bureau of identification and records shall establish and maintain a central index in the law enforcement information system maintained by the department to:

(1) collect and disseminate information relating to an individual's expression of intent to inflict serious bodily injury or death on a peace officer or detention officer; and

(2) alert a peace officer or detention officer of an expression of intent to inflict serious bodily injury or death on the officer.

(c) A criminal justice agency, after making each determination required under Subsection (d), shall immediately enter into the information system an electronic report of an individual who expresses an intent to inflict serious bodily injury or death on a peace officer or detention officer. The agency shall enter the information in the form and manner provided by rules adopted by the director.

(d) Before entering information collected under this section into the information system, a criminal justice agency must determine that the report described by Subsection (c):

(1) is not from an anonymous source; and

(2) consists of an expression of intent to inflict serious bodily injury or death on a peace officer or detention officer.

(e) On proper inquiry into the information system, the department shall disseminate information collected under this section to a criminal justice agency as reasonably necessary to protect the safety of a peace officer or detention officer. The

criminal justice agency may use information disseminated under this subsection in the manner provided by rules adopted by the director.

(f) The department shall promptly respond to a request to disclose information collected under this section by an individual who is the subject of the information.

(g) An individual who is the subject of information collected under this section may request that the director, the director's designee, or a court review the information to determine whether the information complies with rules adopted by the director. The review shall be conducted using the same procedure for reviewing criminal information collected under Chapter 61, Code of Criminal Procedure.

(h) A peace officer, detention officer, or criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under this section in accordance with rules adopted by the director.

(i) The director may adopt rules to implement and enforce this section. Any rule adopted by the director under this section must comply with the provisions of the Code of Federal Regulations, Title 28, Part 23, as it applies to criminal intelligence systems. Added by Acts 2001, 77th Leg., ch. 474, Sec. 3, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 557 (H.B. [1262](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 557 (H.B. [1262](#)), Sec. 2, eff. September 1, 2005.

Sec. 411.049. REPORT RELATED TO CERTAIN INTOXICATION OFFENSES. (a) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section [49.09](#), Penal Code.

(b) The department shall compile and maintain statistical information on the prosecution of offenses relating to the operating of a motor vehicle while intoxicated, including:

- (1) the number of arrests;
- (2) the number of arrests resulting in release with no charges;

(3) the number of charges resulting in a plea of not guilty and a trial;

(4) the number of charges resulting in a plea of guilty or nolo contendere;

(5) the number of charges resulting in a conviction of the offense charged in the original information, indictment, complaint, or other charging instrument;

(6) the number of charges resulting in a conviction of an offense other than the offense charged in the original information, indictment, complaint, or other charging instrument; and

(7) the number of charges resulting in a dismissal.

(c) Each law enforcement agency that enforces Chapter 49, Penal Code, and each appropriate prosecuting attorney's office and court in this state shall report in the manner and on a form prescribed by the department the information necessary for the department to compile the information required by Subsection (b).

(d) The department shall identify law enforcement agencies, prosecuting attorney's offices, and courts required to report under Subsection (c) that fail to timely report or that report incomplete information to the department.

(e) The department shall submit to the legislature not later than February 15 of each year a report of the statistical information described in Subsection (b) compiled for the preceding calendar year. The report must include a list of the law enforcement agencies, prosecuting attorney's offices, and courts identified by the department under Subsection (d).

(f) The department may adopt rules to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 889 (S.B. 364), Sec. 1, eff. September 1, 2011.

Sec. 411.050. CRIME STATISTIC MAPPING. The department, in conjunction with Texas State University, may annually produce maps of the state that include information regarding crime statistics correlated with the various regions of the state.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 13, eff. Sept. 1,

1999. Amended by Acts 2003, 78th Leg., ch. 386, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 30 (S.B. 974), Sec. 12, eff. September 1, 2013.

Sec. 411.051. ANALYSIS OF INFORMATION IDENTIFYING PERSONS COMMITTING OR SUSPECTED OF COMMITTING CERTAIN PROPERTY OFFENSES AGAINST ELDERLY INDIVIDUALS. (a) This section applies to an offense under Chapter 31 or 32, Penal Code, or any other offense under that code involving an intent to steal or defraud if the offense was committed against an elderly individual as defined by Section 22.04(c), Penal Code.

(b) For purposes of this section, the victim's status as an elderly individual is determined according to the victim's age at the time of the offense.

(c) A law enforcement agency that investigates an offense described by Subsection (a) shall report the investigation to the department in the form and manner and at regular intervals as prescribed by rules adopted by the department. The rules must require submission of the original investigative report and any supplemental investigative report containing new, significant information.

(d) To identify a person committing or suspected of committing an offense described by Subsection (a) or a victim of an offense described by that subsection, the department shall analyze information received under this section and any other corresponding information possessed by the department.

(e) The department shall make the analysis required by this section available to any local law enforcement agency, political subdivision, or state agency to the extent the analysis is reasonably necessary or useful to the agency or subdivision in carrying out duties imposed by law on the agency or subdivision. This subsection may not be construed to enable direct access by a person to information analyzed by the department under this section if the person does not otherwise have direct access to that information. Dissemination of the analysis required by this

section is subject to all confidentiality requirements imposed by other law.

Added by Acts 2001, 77th Leg., ch. 789, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.052. FEDERAL FIREARM REPORTING. (a) In this section, "federal prohibited person information" means information that identifies an individual as:

(1) a person ordered by a court to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(2) a person acquitted in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered by a court to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(3) a person determined to have mental retardation and committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(4) an incapacitated adult individual for whom a court has appointed a guardian of the individual under Chapter XIII, Probate Code, based on the determination that the person lacks the mental capacity to manage the person's affairs; or

(5) a person determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

(b) The department by rule shall establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited person information under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(c) The department shall grant access to federal prohibited person information to the person who is the subject of the information.

(d) Federal prohibited person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and

other state law, may not be disseminated by the department.

(e) The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides:

(1) a copy of a judicial order or finding that a person is no longer an incapacitated adult or is entitled to relief from disabilities under Section 574.088, Health and Safety Code; or

(2) proof that the person has obtained notice of relief from disabilities under 18 U.S.C. Section 925.

Added by Acts 2009, 81st Leg., R.S., Ch. 950 (H.B. 3352), Sec. 1, eff. September 1, 2009.

Sec. 411.0521. REPORT TO DEPARTMENT CONCERNING CERTAIN PERSONS' ACCESS TO FIREARMS. (a) The clerk of the court shall prepare and forward to the department the information described by Subsection (b) not later than the 30th day after the date the court:

(1) orders a person to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(2) acquits a person in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(3) commits a person determined to have mental retardation for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(4) appoints a guardian of the incapacitated adult individual under Chapter XIII, Probate Code, based on the determination that the person lacks the mental capacity to manage the person's affairs;

(5) determines a person is incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or

(6) finds a person is entitled to relief from disabilities under Section 574.088, Health and Safety Code.

(b) The clerk of the court shall prepare and forward the following information under Subsection (a):

(1) the complete name, race, and sex of the person;

(2) any known identifying number of the person,

including social security number, driver's license number, or state identification number;

(3) the person's date of birth; and

(4) the federal prohibited person information that is the basis of the report required by this section.

(c) If practicable, the clerk of the court shall forward to the department the information described by Subsection (b) in an electronic format prescribed by the department.

(d) If an order previously reported to the department under Subsection (a) is reversed by order of any court, the clerk shall notify the department of the reversal not later than 30 days after the clerk receives the mandate from the appellate court.

(e) The duty of a clerk to prepare and forward information under this section is not affected by:

(1) any subsequent appeal of the court order;

(2) any subsequent modification of the court order; or

(3) the expiration of the court order.

Added by Acts 2009, 81st Leg., R.S., Ch. 950 (H.B. 3352), Sec. 1, eff. September 1, 2009.

Sec. 411.053. PRESERVATION OF EVIDENCE CONTAINING BIOLOGICAL MATERIAL. (a) The department:

(1) shall maintain a storage space for the preservation of evidence containing biological material that is delivered to the department under Article 38.43(f), Code of Criminal Procedure; and

(2) may maintain a storage space for the preservation of evidence of a sexual assault or other sex offense.

(b) The department shall adopt rules relating to the delivery, cataloging, and preservation of evidence stored under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1179 (H.B. 3594), Sec. 2, eff. September 1, 2009.

Redesignated from Government Code, Section 411.052 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(15), eff. September 1, 2011.

SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES
SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS

Sec. 411.0601. DEFINITION. In this subchapter, "criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF INFORMATION. (a) In the law enforcement information system maintained by the department, the bureau of identification and records shall establish and maintain a central index to collect and disseminate information regarding additional offenses that forensic DNA test results indicate may have been committed by a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only.

(b) Information relating to a defendant described by Subsection (a) may be entered in the central index only if the information is based on forensic DNA test results indicating that the DNA profile of the defendant cannot be excluded as a donor to the DNA profile of a person suspected to have committed an offense, regardless of whether the defendant has been or will be arrested for or charged with that offense. The information must be:

(1) submitted in the form of an affidavit signed by a representative of an investigating criminal justice agency and approved by a district judge; and

(2) accompanied by a set of the defendant's fingerprints.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF INFORMATION IN CENTRAL INDEX. (a) Information maintained by the department in the central index established under this subchapter is confidential. The department may not disseminate the

information except as otherwise provided by this section.

(b) On proper inquiry, the department shall disseminate to a criminal justice agency the information collected under Section 411.0602. The criminal justice agency may disseminate the information to any other criminal justice agency if the dissemination of that information is for a criminal justice purpose.

(c) A criminal justice agency or an employee of a criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under Section 411.0602 if that collection, use, or dissemination is performed in accordance with rules adopted by the director.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0604. RULES. The director shall adopt rules to implement and enforce this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL INDEX. (a) A defendant described by Section 411.0602(a) may submit to the bureau of identification and records a request to determine whether the bureau has entered information relating to the defendant in the central index established under Section 411.0602. The bureau shall respond to the request not later than the 10th business day after the date the bureau receives the request.

(b) Before responding to a request under Subsection (a), the bureau may require reasonable written verification of the identity of the defendant submitting the request, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL

INDEX. (a) On receipt by the bureau of identification and records of a written request that is submitted by a defendant described by Section 411.0602(a), that is accompanied by a set of the defendant's fingerprints, and that alleges that the bureau may have entered inaccurate information relating to the defendant in the central index established under Section 411.0602, the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin each shall review the information to determine whether there is a high likelihood that the information is accurate.

(b) If after review the head of the bureau or that person's designee or the head of the department's crime laboratory in Austin determines there is not a high likelihood that the information relating to the defendant is accurate, the bureau shall:

(1) promptly remove that information from the central index; and

(2) notify other appropriate divisions of the department, the investigating criminal justice agency, and the defendant of the bureau's determination and the removal of the information.

(c) If after review the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin jointly determine there is a high likelihood that the information relating to the defendant is accurate, the bureau shall notify the defendant of that determination.

Added by Acts 2009, 81st Leg., R.S., Ch. 1152 (H.B. 2932), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. CAPITOL COMPLEX

Sec. 411.061. DEFINITION. (a) In this subchapter, "Capitol Complex" means the following property that is located in Austin, Texas, to the extent the property is owned by or under the control of the state:

(1) the area bounded on the north by the inside curb of Martin Luther King, Jr., Boulevard, on the east by the outside curb of Trinity Street, on the south by the outside curb of 10th Street,

and on the west by the outside curb of Lavaca Street;

(2) the William P. Clements State Office Building located at 300 West 15th Street; and

(3) other locations under the jurisdiction of the capitol police district as may be approved by the director.

(b) The provisions of this subchapter do not apply to the property or parking facility under the management and control of the Texas Employment Commission and located within the bounds set forth in Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 270, Sec. 3, eff. May 26, 1997.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [3628](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.062. LAW ENFORCEMENT AND SECURITY AUTHORITY. (a) The department has primary responsibility for law enforcement and security services on the Capitol Complex.

(b) Subsection (a) does not prohibit the department from requesting or receiving assistance from another law enforcement agency.

(c) This section does not prohibit a peace officer who is not a member of the department from exercising the officer's authority on the Capitol Complex in an emergency or in a situation where the officer reasonably believes that immediate action is necessary.

(d) The department shall adopt rules relating to security of persons and access to and protection of the grounds, public buildings, and property of the state within the Capitol Complex, except that public use of the capitol, the capitol extension, the capitol grounds, and the General Land Office building shall be governed by the State Preservation Board.

(e) The department may enforce the rules of the State Preservation Board, adopted under Section [443.018](#).

(f) The department and the City of Austin shall execute an interlocal cooperation agreement that defines the respective

responsibilities of the department and the city for traffic and parking enforcement and general security in the Capitol Complex, including private property within the boundaries of the complex.

(g) The commission may authorize the director to impose within the Capitol Complex measures the director determines to be necessary to protect the safety and security of persons and property within the complex.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 270, Sec. 4, eff. May 26, 1997.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.0625. PASS FOR EXPEDITED ACCESS TO CAPITOL. (a) The department shall allow a person to enter the Capitol and the Capitol Extension, including any public space in the Capitol or Capitol Extension, in the same manner as the department allows entry to a person who presents a concealed handgun license under Subchapter H if the person:

(1) obtains from the department a Capitol access pass; and

(2) presents the pass to the appropriate law enforcement official when entering the building or a space within the building.

(b) To be eligible for a Capitol access pass, a person must meet the eligibility requirements applicable to a license to carry a concealed handgun under Subchapter H, other than requirements regarding evidence of handgun proficiency.

(c) The department shall adopt rules to establish a procedure by which a resident of the state may apply for and be issued a Capitol access pass. Rules adopted under this section must include provisions for eligibility, application, approval, issuance, and renewal that:

(1) require the department to conduct the same background check on an applicant for a Capitol access pass that is conducted on an applicant for a concealed handgun license under

Subchapter H;

(2) enable the department to conduct the background check described by Subdivision (1); and

(3) establish application and renewal fees in amounts sufficient to cover the cost of administering this section, not to exceed the amounts of similar fees required for a concealed handgun license under Section [411.174](#).

Added by Acts 2011, 82nd Leg., R.S., Ch. 205 (H.B. [2131](#)), Sec. 1, eff. May 30, 2011.

Sec. 411.063. RULES RELATING TO PARKING AND VEHICLES. (a) The State Preservation Board shall adopt rules for the safe movement and the parking of vehicles in the Capitol Complex. The department shall administer and enforce the rules adopted by the preservation board and shall administer and enforce this subchapter. This subsection does not affect the authority of the department to adopt rules under Section [411.067](#).

(b) Rules adopted under this section may:

(1) regulate the type, flow, and direction of vehicular traffic;

(2) designate, mark, and assign areas and spaces for parking for elected state officials, chief executives and employees of state agencies located in the Capitol Complex, state-owned vehicles, business vehicles, and visitors to the Capitol Complex;

(3) establish a system of registration for vehicle identification;

(4) prohibit or restrict the use of areas and spaces for parking;

(5) establish a reasonable fee for parking in a parking space on a parking lot or in a parking garage that is located in the Capitol Complex, other than a space in the capitol driveway or capitol extension garage; and

(6) provide for the towing and storing, at the expense of the owner, of a vehicle parked in violation of a rule.

(c) Rules that govern parking in the parking spaces in the capitol driveways and the parking lots and parking garages near the capitol, to the extent that parking in such places is not otherwise

regulated by the State Preservation Board, shall provide for:

(1) assigning and marking reserved parking spaces for the unrestricted use of the governor, lieutenant governor, speaker of the house of representatives, and secretary of state;

(2) when the legislature is in session, assigning and marking reserved parking spaces requested by each house of the legislature for the unrestricted use of members and administrative staff of the legislature; and

(3) when the legislature is not in session, assigning and marking parking spaces requested by each house of the legislature for the use of members and administrative staff of the legislature.

(d) Except as provided by Section 443.015, the department shall remit to the comptroller for deposit to the credit of State Parking Fund No. 125 any fee collected for the parking of a vehicle in the Capitol Complex. Money in the fund may be appropriated only to the department for the operation, maintenance, and improvement of state parking facilities on, and for security in, the Capitol Complex.

(e) To the extent that the City of Austin on January 1, 1997, operated and maintained parking meters along either side of the streets forming the perimeter of the Capitol Complex, the city is entitled to continue to operate, maintain, and receive the revenue from those meters, except that the city may not operate or maintain along those streets meters that accept only quarters.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 270, Sec. 5, eff. May 26, 1997; Acts 2001, 77th Leg., ch. 1462, Sec. 6, eff. June 17, 2001.

Sec. 411.064. ASSISTANCE OF TEXAS DEPARTMENT OF TRANSPORTATION OR GENERAL SERVICES COMMISSION. (a) On request of the department, the Texas Department of Transportation and the General Services Commission shall:

(1) assist the department in the marking and designation of parking lots, parking garages, and parking spaces;

(2) maintain the painting of lines and curb markings;
and

(3) furnish and erect direction and information signs.

(b) The department may recover the cost of providing the services described in Subsection (a) from the agency or agencies for which the service was provided. To the extent that either the General Services Commission or the Texas Department of Transportation provides or assists in providing the services described in Subsection (a), that agency shall be reimbursed by the department from its funds or the funds received from another agency under this subsection.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.

Sec. 411.0645. TRANSPORTATION PLANNING COMMITTEE. (a) The department, the City of Austin, the Capital Metropolitan Transportation Authority, the General Services Commission, the State Preservation Board, and The University of Texas at Austin shall each designate a representative to a committee established for the purpose of coordinating transportation in and adjacent to the Capitol Complex. The representative of the department shall convene the initial meeting of the committee, and the committee shall elect officers and meet as decided by the committee.

(b) The committee may develop and recommend to the agencies represented agreements and memoranda of understanding relating to transportation in and adjacent to the Capitol Complex, including agreements or understandings relating to parking, vehicle traffic, and the location of light rail or other mass transit terminals and facilities in that area.

Added by Acts 1997, 75th Leg., ch. 270, Sec. 6, eff. May 26, 1997.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [3628](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.065. OFFENSES. (a) A person commits an offense if the person violates a rule of the department adopted under Section [411.062](#) or a rule of the State Preservation Board adopted under Section [411.063](#).

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 270, Sec. 7, eff. May 26, 1997;
Acts 2001, 77th Leg., ch. 1462, Sec. 7, eff. June 17, 2001.

Sec. 411.066. JURISDICTION. The municipal court of a municipality and the justice courts of a county in which an offense under Section 411.065 was committed have concurrent original jurisdiction over such an offense.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.

Sec. 411.067. ADMINISTRATIVE PARKING VIOLATIONS. (a) The department may adopt rules for the assessment of an administrative fine of \$25 for violations of the parking rules adopted under Section 411.063. Notwithstanding the provisions of Sections 411.065 and 411.066, the department may issue an administrative citation for a parking violation.

(b) Rules adopted under this section shall:

(1) establish a system for enforcement of administrative citations, including assessment of a late fee not to exceed \$5 and towing, impoundment, or immobilization of vehicles; and

(2) provide a procedure of administrative review within the highway patrol district that includes the Capitol Complex and, on request of the person assessed an administrative fine, further judicial review by the department filing the appropriate citation or complaint in a court, as provided in Section 411.066.

(c) The administrative review provided for in Subsection (b) shall not be considered a contested case under Chapter 2001 or Chapter 2003.

(d) The department shall remit to the comptroller for deposit in the general revenue fund each administrative fine and late fee collected under this section. The money deposited may be appropriated only to the department for security and parking in the highway patrol district that includes the Capitol Complex.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 14, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (76), eff.

Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 20.01, eff. September 1, 2009.

SUBCHAPTER F. CRIMINAL HISTORY RECORD INFORMATION

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 2286, H.B. 3579, S.B. 130, S.B. 1902, H.B. 2299 and S.B. 1296, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 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, except as provided by Subsection (g-3);

(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).

(d) Notwithstanding any other provision of this subchapter,

if a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, subsequently receives a discharge and dismissal under Section 5(c), Article 42.12, and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. Except as provided by Subsection (e), a person may petition the court for an order of nondisclosure regardless of whether the person has been previously placed on deferred adjudication community supervision for another offense. After notice to the state, an opportunity for a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies, for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order. A person may petition the court that placed the person on deferred adjudication for an order of nondisclosure only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the second anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code; or

(3) the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(e) A person is entitled to petition the court under Subsection (d) only if during the period of the deferred adjudication community supervision for which the order of nondisclosure is requested and during the applicable period

described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to petition the court under Subsection (d) if the person was placed on the deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication for:

(1) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(2) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code; or

(4) any other offense involving family violence, as defined by Section 71.004, Family Code.

(f) For purposes of Subsection (d), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision the judge dismissed the proceedings and discharged the person.

(f-1) A person who petitions the court for an order of nondisclosure under Subsection (d) may file the petition in person, electronically, or by mail. The petition must be accompanied by payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition

electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition. The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website. On receipt of a petition under this subsection, the court shall provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The court shall hold a hearing before determining whether to issue an order of nondisclosure, except that a hearing is not required if:

(1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and

(2) the court determines that:

(A) the defendant is entitled to file the petition; and

(B) the order is in the best interest of justice.

(g) Not later than the 15th business day after the date an order of nondisclosure is issued under this section, the clerk of the court shall send all relevant criminal history record information contained in the order or a copy of the order by certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission to the Crime Records Service of the Department of Public Safety.

(g-1) Not later than 10 business days after receipt of relevant criminal history record information contained in an order or a copy of an order under Subsection (g), the Department of Public Safety shall seal any criminal history record information maintained by the department that is the subject of the order. The department shall also send all relevant criminal history record information contained in the order or a copy of the order by

certified mail, return receipt requested, or secure electronic mail, electronic transmission, or facsimile transmission to all:

(1) 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;

(2) central federal depositories of criminal records that there is reason to believe have criminal history record information that is the subject of the order; and

(3) private entities that purchase criminal history record information from the department or that otherwise are likely to have criminal history record information that is subject to the order.

(g-1a) The director shall adopt rules regarding minimum standards for the security of secure electronic mail, electronic transmissions, and facsimile transmissions under Subsections (g) and (g-1). In adopting rules under this subsection, the director shall consult with the Office of Court Administration of the Texas Judicial System.

(g-1b) Not later than 30 business days after receipt of relevant criminal history record information contained in an order or a copy of an order from the Department of Public Safety under Subsection (g-1), an individual or entity described by Subsection (g-1)(1) shall seal any criminal history record information maintained by the individual or entity that is the subject of the order.

(g-1c) The department may charge to a private entity that purchases criminal history record information from the department a fee in an amount sufficient to recover costs incurred by the department in providing relevant criminal history record information contained in an order or a copy of an order under Subsection (g-1)(3) to the entity.

(g-2) A person whose criminal history record information has been sealed under this section is not required in any application for employment, information, or licensing to state that the person has been the subject of any criminal proceeding related

to the information that is the subject of an order issued under this section.

(g-3) A court may not disclose to the public any information contained in the court records that is the subject of an order of nondisclosure issued under this section. The court may disclose information contained in the court records that is the subject of an order of nondisclosure only to criminal justice agencies for criminal justice or regulatory licensing purposes, to an agency or entity listed in Subsection (i), or to the person who is the subject of the order. The clerk of the court issuing an order of nondisclosure under this section shall seal any court records containing information that is the subject of the order as soon as practicable after the date the clerk of the court sends all relevant criminal history record information contained in the order or a copy of the order to the Department of Public Safety under Subsection (g).

(h) The clerk of a court that collects a fee under Subsection (d) shall remit the fee to the comptroller not later than the last day of the month following the end of the calendar quarter in which the fee is collected, and the comptroller shall deposit the fee in the general revenue fund. The Department of Public Safety shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:

(1) the number of petitions for nondisclosure and orders of nondisclosure received by the department in each of the previous two years;

(2) the actions taken by the department with respect to the petitions and orders received;

(3) the costs incurred by the department in taking those actions; and

(4) the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense committed after the order was issued.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 266

(H.B. 729), Sec. 4

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district, or a facility as defined by Section [250.001](#), Health and Safety Code;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;

- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission;
- (23) the Department of Aging and Disability Services;
- (24) the Texas Education Agency;
- (25) the Guardianship Certification Board;
- (26) a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;
- (27) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:
 - (A) the Department of Information Resources; or
 - (B) a contractor or subcontractor of the Department of Information Resources;
- (28) the Court Reporters Certification Board;
- (29) the Texas Department of Insurance; and
- (30) the Teacher Retirement System of Texas.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 583
(S.B. 869), Sec. 32

- (i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:
 - (1) the State Board for Educator Certification;
 - (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
 - (3) the Texas Medical Board;
 - (4) the Texas School for the Blind and Visually Impaired;
 - (5) the Board of Law Examiners;
 - (6) the State Bar of Texas;
 - (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Juvenile Justice Department;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;
- (19) the Texas State Board of Public Accountancy;
- (20) the Texas Department of Licensing and Regulation;
- (21) the Health and Human Services Commission;
- (22) the Department of Aging and Disability Services;
- (23) the Texas Education Agency;
- (24) the Guardianship Certification Board;
- (25) a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;
- (26) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:
 - (A) the Department of Information Resources; or
 - (B) a contractor or subcontractor of the Department of Information Resources;
- (27) the Court Reporters Certification Board;
- (28) the Texas Department of Insurance;

- (29) the Teacher Retirement System of Texas; and
- (30) the Texas State Board of Pharmacy.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 42
(S.B. 966), Sec. 2.23

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Juvenile Justice Department;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;

(18) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;

(19) the Texas State Board of Public Accountancy;

(20) the Texas Department of Licensing and Regulation;

(21) the Health and Human Services Commission;

(22) the Department of Aging and Disability Services;

(23) the Texas Education Agency;

(24) the Judicial Branch Certification Commission;

(25) a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;

(26) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information Resources;

(27) the Texas Department of Insurance; and

(28) the Teacher Retirement System of Texas.

(j) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 731, Sec. 12, eff. June 17, 2011.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 1236, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 177 (H.B. 413), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1309 (H.B. 3093), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 54, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.061, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. [1303](#)), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. [1303](#)), Sec. 11, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. [9](#)), Sec. 16, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. [1830](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 780 (S.B. [1056](#)), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 816 (S.B. [1599](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1027 (H.B. [4343](#)), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 11.005, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. [1667](#)), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. [961](#)), Sec. 12, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1182 (H.B. [3453](#)), Sec. 12, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. [966](#)), Sec. 2.23, eff. September 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. [743](#)), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 266 (H.B. [729](#)), Sec. 4, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 583 (S.B. [869](#)), Sec. 32, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1146 (S.B. [107](#)), Sec. 1, eff. September 1, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1743](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 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 Subchapter C, Chapter 521, Transportation Code.

(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.

(5) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78.

(6) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.190, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. 1044), Sec. 1, eff.

September 1, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1902](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 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;

(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;

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

(E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;

(6) an individual or an agency that has a specific agreement with a noncriminal justice agency to provide services related to the use of criminal history record information disseminated under this subchapter, 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;

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

(E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;

(7) a county or district clerk's office; and

(8) the Office of Court Administration of the Texas Judicial System.

(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), (5), or (6) only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(7) only to the extent necessary for a county or district clerk to perform a duty imposed by law to collect and report criminal court disposition information. Criminal history record information disseminated to a clerk under Subsection (b)(7) may be used by the clerk only to ensure that information reported by the clerk to the department is accurate and complete. The dissemination of information to a clerk under Subsection (b)(7) does not affect the authority of the clerk to disclose or use information submitted by the clerk to the department. The department may disseminate

criminal history record information under Subsection (b)(8) only to the extent necessary for the office of court administration to perform a duty imposed by law to compile court statistics or prepare reports. The office of court administration may disclose criminal history record information obtained from the department under Subsection (b)(8) in a statistic compiled by the office or a report prepared by the office, but only in a manner that does not identify the person who is the subject of the information.

(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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 474, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 17, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.02, eff. June 19, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 1902, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO CERTAIN PRIVATE ENTITIES. If the department receives information indicating that a private entity that purchases criminal history record information from the department has been found by a court to have committed three or more violations of Section 552.1425 by compiling or disseminating information with respect to which an order of expunction or an order of nondisclosure has been issued, the department may not release any criminal history record information to that entity until the first anniversary of the date of the most recent violation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 7, eff. September 1, 2007.

Sec. 411.084. USE OF CRIMINAL HISTORY RECORD INFORMATION.

(a) Criminal history record information obtained from the department under this subchapter, including any identification information that could reveal the identity of a person about whom criminal history record information is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

(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.

(a-1) The term "criminal history record" information under Subsection (a) does not refer to any specific document produced to comply with this subchapter but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

(b) Notwithstanding Subsection (a) or any other provision in this subchapter, criminal history record information obtained from the Federal Bureau of Investigation may be released or disclosed only to a governmental entity or as authorized by federal law and regulations, federal executive orders, and federal policy.

(c) An agency or individual may not confirm the existence or nonexistence of criminal history record information to any person that is not eligible to receive the information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 296, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.03, eff. June 19, 2009.

Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The department shall establish an electronic clearinghouse and subscription service to provide criminal history record information to a particular person entitled to receive criminal history record information and updates to a particular record to which the person has subscribed under this subchapter.

(b) On receiving a request for criminal history record information from a person entitled to such information under this subchapter, the department shall provide through the electronic clearinghouse:

(1) the criminal history record information reported to the department or the Federal Bureau of Investigation relating to the individual who is the subject of the request; or

(2) a statement that the individual who is the subject of the request does not have any criminal history record information reported to the department or the Federal Bureau of Investigation.

(c) If the department provides information received from the Federal Bureau of Investigation, the department must include with the information the date the department received information from the Federal Bureau of Investigation.

(d) The department shall ensure that the information described by Subsection (b) is provided only to a person otherwise entitled to obtain criminal history record information under this subchapter. Information collected under this section is confidential and is not subject to disclosure under Chapter 552.

(e) A person entitled to receive criminal history record information under this section must provide the department with the following information regarding the person who is the subject of the criminal history record information requested:

(1) the person's full name, date of birth, sex, and social security number, and the number assigned to any form of

unexpired identification card issued by this state or another state, the District of Columbia, or a territory of the United States that includes the person's photograph;

(2) a recent electronic digital image photograph of the person and a complete set of the person's fingerprints as required by the department; and

(3) any other information required by the department.

(f) The department shall maintain an Internet website for the administration of the clearinghouse and an electronic subscription service to provide notice of updates to a particular criminal history record to each person entitled under this subchapter to receive criminal history record information updates to that particular record. The department shall update clearinghouse records as a result of any change in information discovered by the department. Within 48 hours after the department becomes aware that a person's criminal history record information in a clearinghouse record has changed, the department shall provide notice of the updated information only to each subscriber to that specific record.

(g) As soon as practicable, a subscriber who is no longer entitled to receive criminal history record information relating to a particular person shall notify the department. The department shall cancel the person's subscription to that record and may not notify the former subscriber of any updated information to that record.

(h) A person who is the subject of the criminal history record information requested under this section must consent to the release of the information.

(i) The release under this section of any criminal history record information maintained by the Federal Bureau of Investigation, including the computerized information submitted to the federal database maintained by the Federal Bureau of Investigation as described by Section 411.042(b)(9)(B), is subject to federal law and regulations, federal executive orders, and federal policy.

(j) The department may charge a fee for subscription services to cover the costs of administering this section.

(k) A governmental agency may coordinate with the department regarding the use of the fingerprinting fee collection process to collect a fee for the criminal history record information and any other fees associated with obtaining a person's fingerprints as required by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 18, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.04, eff. June 19, 2009.

Sec. 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; or

(2) 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 a copy of this section to:

(1) each person who applies for access to criminal history record information maintained by the department; and

(2) each private entity that purchases criminal history record information from the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.05, eff. June 19, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 2286, H.B. 3579, S.B. 130 and S.B. 1902, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.0851. DUTY OF PRIVATE ENTITY TO UPDATE CRIMINAL HISTORY RECORD INFORMATION; CIVIL LIABILITY. (a) A private entity that compiles and disseminates for compensation criminal history record information shall destroy and may not disseminate any information in the possession of the entity with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure has been issued under Section 411.081(d).

(b) Unless the entity is regulated by the federal Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) or the Gramm-Leach-Bliley Act (15 U.S.C. Sections 6801 to 6809), a private entity described by Subsection (a) that purchases criminal history record information from the department or from another governmental agency or entity in this state:

(1) may disseminate that information only if, within the 90-day period preceding the date of dissemination, the entity:

(A) originally obtains that information; or

(B) receives that information as updated record information to its database; and

(2) shall notify the department if the entity sells any compilation of the information to another similar entity.

(c) A private entity that disseminates information in violation of this section is liable for any damages that are sustained as a result of the violation by the person who is the subject of that information. A person who prevails in an action brought under this section is also entitled to recover court costs

and reasonable attorney's fees.

Added by Acts 2007, 80th Leg., R.S., Ch. 1017 (H.B. 1303), Sec. 7, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 780 (S.B. 1056), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 731 (H.B. 961), Sec. 8, eff. June 17, 2011.

Sec. 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.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 1902, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.087. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION MAINTAINED BY FEDERAL BUREAU OF INVESTIGATION OR LOCAL CRIMINAL JUSTICE AGENCY. (a) Unless otherwise authorized by Subsection (e), 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 information 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) The department may provide access to state and national criminal history record information to qualified entities entitled to that information under 42 U.S.C. Section 5119a. The department must follow federal law and regulation, federal executive orders, and federal policy in releasing information under this subsection.

(f) Notwithstanding any other law, a person, agency, department, political subdivision, or other entity entitled to access the criminal history record information of a person under Subsection (e) is not required to collect or submit the person's fingerprints if:

(1) a complete set of the person's fingerprints was previously submitted under Subsection (d)(1);

(2) the department retained the fingerprints;

(3) the fingerprints are acceptable to the Federal Bureau of Investigation for access to criminal history record information; and

(4) the only purpose for which the person's fingerprints are collected is to access criminal history record information under Subsection (e).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 248, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 19, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. 1178), Sec. 12, eff. September 1, 2011.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1743](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.088. FEES. (a) Except as otherwise provided by Subsection (a-1), the department may charge a person 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) except as provided by Subsection (b), actual costs for processing all other information inquiries.

(a-1) The department may not charge a fee under Subsection (a) for providing criminal history record information to:

- (1) a criminal justice agency;
- (2) the office of capital writs; or
- (3) a public defender's office.

(b) The department may not charge for processing an electronic inquiry for information described as public information under Article [62.005](#), Code of Criminal Procedure, made through the use of the Internet.

(c) The fee a municipality pays under Subsection (a)(1) for an inquiry submitted electronically or by magnetic media may be used to allow the department to make the information available through electronic means under Section [411.129](#).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 747, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 791, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1024, Sec. 2, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(40), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.09, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. 1044), Sec. 2, eff. September 1, 2013.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) Subject to Section 411.087, the department is authorized to obtain and use criminal history record information maintained by the Federal Bureau of Investigation or the department that relates to a person who:

(1) is an applicant for or holds a registration issued by the director under Subchapter C, Chapter 481, Health and Safety Code, that authorizes the person to manufacture, distribute, analyze, or conduct research with a controlled substance;

(2) is an applicant for or holds a chemical precursor transfer permit issued by the director under Section 481.078, Health and Safety Code;

(3) is an applicant for or holds a chemical laboratory apparatus transfer permit issued by the director under Section 481.081, Health and Safety Code;

(4) is an applicant for certification by the department as an inspection station or an inspector under

Subchapter G, Chapter 548, Transportation Code, holds an inspection station or inspector certificate issued under that subchapter, or is the owner of an inspection station operating under that chapter; or

(5) is an applicant for approval or has been approved as a program sponsor by the department under Chapter 662, Transportation Code, is an applicant for certification by the department as an instructor under that chapter, or holds an instructor certificate issued under that chapter.

(b) The department may release or disclose criminal history record information obtained or used by the department for a purpose described by Subsection (a) to another person or agency only:

- (1) in a criminal proceeding;
- (2) in a hearing conducted by the department;
- (3) under an order from a court; or
- (4) with the consent of the person who is the subject of the criminal history record information.

(c) This section may not be construed to limit the authority of the department to disseminate criminal history record information as provided by Section [411.083](#).

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 9.01, eff. June 19, 2009.

Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for Educator Certification is entitled to obtain from the department any criminal history record information maintained by the department about a person who has applied to the board for a certificate under Subchapter B, Chapter 21, Education Code.

(b) Criminal history record information obtained by the board in the original form or any subsequent form:

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

(2) may not be released to any person except:
(A) the person who is the subject of the information;

(B) the Texas Education Agency;

(C) a local or regional educational entity as provided by Section 411.097; or

(D) by court order;

(3) is not subject to disclosure as provided by Chapter 552; and

(4) shall be destroyed by the board after the information is used for the authorized purposes.

(c) The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department. Any record of the notification and any information contained in the notification is not subject to disclosure as provided by Chapter 552.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 260, Sec. 27, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 20, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.02, eff. September 1, 2009.

Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:

(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

(2) is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present; or

(3) is employed or is an applicant for employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement if:

(A) the employee or applicant has or will have

continuing duties relating to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

(b) Criminal history record information obtained by the agency in the original form or any subsequent form:

(1) may be used only for a purpose authorized by the Education Code;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the State Board for Educator Certification;

(C) a local or regional educational entity as provided by Section 411.097; or

(D) by court order;

(3) is not subject to disclosure as provided by Chapter 552; and

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

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 21, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.03, eff. September 1, 2009.

Sec. 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 the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code.

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

(c) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 14.753, eff. Sept. 1, 2001.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(28), eff. Sept.

1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 14.752, 14.753, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.001, eff. September 1, 2013.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 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, charter, or other authority granted or issued by the banking commissioner under:

(A) Subtitle A, F, or G, Title 3, Finance Code;

(B) Chapter 151 or 154, Finance Code; or

(C) Chapter 712, Health and Safety Code;

(2) a principal of an applicant under Subdivision (1);

(3) an employee of or applicant for employment or volunteer with the Texas Department of Banking; or

(4) a contractor or subcontractor of the Texas Department of Banking.

(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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 194, Sec. 1, eff. May 23, 1995;
Acts 1999, 76th Leg., ch. 62, Sec. 7.59, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 35 (S.B. 192), Sec. 1, eff.
September 1, 2013.

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

(1) an applicant for a license, certificate, registration, title, or permit issued by the department; or

(2) the holder of a license, certificate, registration, title, or permit issued by the department.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 2, eff. Sept. 1, 2003.

Sec. 411.094. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: HIGHER EDUCATION ENTITIES; SECURITY-SENSITIVE POSITION. (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 an employment position held by an employee who:

(A) handles currency;

(B) has access to a computer terminal;

(C) has access to the personal information or identifying information of another person;

(D) has access to the financial information of the employer or another person;

(E) has access to a master key; or

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

(b) The Texas Higher Education Coordinating Board and each institution of higher education are 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 at the coordinating board or institution, as applicable.

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

(d) Criminal history record information received 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.

(e) All criminal history record information obtained about an individual under Subsection (b) shall be destroyed by the coordinating board or by the chief of police of the institution of higher education, as applicable, as soon as practicable after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment or, if the individual is not hired for a security-sensitive position, after the information is used for its authorized purpose.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 296, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 10.06, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 340 (H.B. [2937](#)), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 340 (H.B. [2937](#)), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 340 (H.B. [2937](#)), Sec. 3, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1148 (S.B. [146](#)), Sec. 1, eff.

June 14, 2013.

Sec. 411.0945. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PUBLIC INSTITUTION OF HIGHER EDUCATION; ON-CAMPUS STUDENT HOUSING. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(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 student, or to an applicant for admission as a student, who applies to reside in on-campus housing at the institution.

(c) Criminal history record information obtained by an institution of higher education under Subsection (b) may be used by the chief of police of the institution or by the institution's housing office only for the purpose of evaluating current students or applicants for enrollment who apply to reside in on-campus housing at the institution. The institution shall notify a student who is the subject of the criminal history record information of any use of the information to deny the student the opportunity to reside in on-campus housing at the institution.

(d) Criminal history record information received by an institution of higher education 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.

(e) As soon as practicable after the beginning of the academic period for which the person's housing application was submitted, all criminal history record information obtained about a person under Subsection (b), including any copy of the content of that information held by the institution, shall be destroyed by the chief of police of the institution of higher education or by the institution's housing office, as applicable.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1148 (S.B. 146), Sec. 2, eff. June 14, 2013.

This section was amended by the 84th Legislature. Pending

publication of the current statutes, see S.B. [1075](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. The consumer credit commissioner is entitled to obtain from the department criminal history record information that relates to a person who is an applicant for or holder of a license under Chapter 342, 347, 348, 351, 353, or 371, Finance Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.60, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1235, Sec. 24, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 296, Sec. 13(1), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. [10](#)), Sec. 20, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 117 (H.B. [2559](#)), Sec. 18, eff. September 1, 2011.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES. (a) A

school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement, or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, shared services arrangement, or entity is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is:

(1) an applicant for employment by the district, school, service center, or shared services arrangement;

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district, school, service center, or shared services arrangement to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported; or

(3) an employee of or applicant for employment by an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section [22.0834](#), Education Code.

(b) A school district, charter school, private school, regional education service center, or education shared services arrangement is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, or shared services arrangement is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a person who is a volunteer, student teacher, or employee of the district, school, service center, or shared services arrangement.

(c) An open-enrollment charter school is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a member of the governing body of the school, as defined by Section [12.1012](#), Education Code; or

(2) has agreed to serve as a member of the governing body of the school.

(d) Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement in the original form or any subsequent form:

(1) may not be released to any person except:

(A) the individual who is the subject of the information;

(B) the Texas Education Agency;

(C) the State Board for Educator Certification;

(D) the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2); or

(E) by court order;

(2) is not subject to disclosure as provided by Chapter 552; and

(3) shall be destroyed by the school district, charter school, private school, service center, commercial transportation company, or shared services arrangement on the earlier of:

(A) the first anniversary of the date the information was originally obtained; or

(B) the date the information is used for the authorized purpose.

(e) If a regional education service center or commercial transportation company that receives criminal history record information from the department under this section requests the information by providing to the department a list, including the name, date of birth, and any other personal descriptive information required by the department for each person, through electronic means, magnetic tape, or disk, as specified by the department, the department may not charge the service center or commercial transportation company more than the lesser of:

(1) the department's cost for providing the information; or

(2) the amount prescribed by another law.

(f) An employee of a school district, charter school,

private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement may request from the employer a copy of any criminal history record information relating to that employee that the employer has obtained as provided by Subchapter C, Chapter 22, Education Code. The employer may charge a fee to an employee requesting a copy of the information in an amount not to exceed the actual cost of copying the requested criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 260, Sec. 27, eff. May 30, 1995; Acts 1997, 75th Leg., ch. 1438, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1504, Sec. 33, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 22, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 23, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.04, eff. September 1, 2009.

Sec. 411.0971. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEACHER RETIREMENT SYSTEM OF TEXAS. (a) The Teacher Retirement System of Texas is entitled to obtain from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by the department, division, or agency that relates to a person who:

(1) is an employee or an applicant for employment with the retirement system;

(2) is a consultant, contract employee, independent contractor, intern, or volunteer for the retirement system or an applicant to serve in one of those positions;

(3) proposes to enter into a contract with or has a contract with the retirement system to perform services for or supply goods to the retirement system; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the retirement system.

(b) Criminal history record information obtained by the Teacher Retirement System of Texas under Subsection (a) may not be released or disclosed to any person except:

(1) on court order;

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

(3) to a federal agency as required by federal law or executive order.

(c) The Teacher Retirement System of Texas shall destroy criminal history record information obtained under this section after the information is used for the purposes authorized by this section.

(d) The Teacher Retirement System of Texas may provide a copy of the criminal history record information obtained from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or other law enforcement agency to the individual who is the subject of the information.

(e) The failure or refusal of an employee or applicant to provide the following on request constitutes good cause for dismissal or refusal to hire:

(1) a complete set of fingerprints;

(2) a true and complete name; or

(3) other information necessary for a law enforcement entity to obtain criminal history record information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 455 (S.B. 1667), Sec. 2, eff. September 1, 2011.

Sec. 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, student teachers, educational interns, persons who perform ongoing educational projects at the school, 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, volunteer, student teacher, educational intern, or person who performs ongoing educational projects at the school with a copy of respective criminal history record information obtained from the Department of Public Safety, the 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 or accept for placement, as applicable, with regard to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1341, Sec. 6, eff. Sept. 1, 1997.

Sec. 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 Subtitle B, Title 3, Occupations Code; or

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

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.754, eff. Sept. 1, 2001.

Sec. 411.0995. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BOARD OF VETERINARY MEDICAL EXAMINERS. The State Board of Veterinary 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 to practice equine dentistry under Chapter 801, Occupations Code; or

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 940 (H.B. 414), Sec. 28, eff. September 1, 2011.

Sec. 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 information obtained by the board that relates to that applicant.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.1005. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE BAR OF TEXAS. (a) The general counsel of the State Bar of Texas is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a person licensed by the state bar and who is the subject of or involved in an investigation of:

(A) professional misconduct relating to a grievance filed under the disciplinary rules of the state bar; or

(B) barratry, the unauthorized practice of law, or falsely holding oneself out as a lawyer, in violation of Section 38.12, 38.122, or 38.123, Penal Code;

(2) a witness in any disciplinary action or proceeding conducted by the state bar, the Board of Disciplinary Appeals, or any court; or

(3) an applicant for reinstatement to practice law.

(b) Information received by the state bar is confidential and may be disseminated only:

(1) in a disciplinary action or proceeding conducted by the state bar, the Board of Disciplinary Appeals, or any court; or

(2) with the consent of the person who is the subject of the criminal history record information.

(c) The state bar shall destroy criminal history record information obtained under this section promptly after a final determination is made in the matter for which the information was obtained.

Added by Acts 1997, 75th Leg., ch. 440, Sec. 1, eff. May 29, 1997. Renumbered from Sec. 411.135 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(39), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.08, eff. June 19, 2009.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [208](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.104. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS WORKFORCE COMMISSION. (a) In this section, "security sensitive position" has the meaning assigned by Section 301.042(c), Labor Code.

(b) The Texas Workforce 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 9.59, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 296, Sec. 4, 5, eff. Sept. 1, 2003.

Sec. 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 Chapter 901, Occupations Code; or

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

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 296, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.002, eff. September 1, 2013.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.108. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS LOTTERY COMMISSION. (a) The Texas Lottery Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who, under Chapter 466, 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 commission in connection with the procurement of goods or services by the commission, 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 commission to supply goods or services to the commission;

(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 executive director or a prospective executive director of the commission;

(11) an employee or prospective employee of the commission; or

(12) a sales agent whose license is renewed under Section [466.158](#).

(a-1) The Texas Lottery Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person licensed under Chapter 2001, Occupations Code, or described by Section [2001.3025](#), Occupations Code.

(b) Criminal history record information obtained by the commission under Subsection (a) or (a-1) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

(c) The commission 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.54, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 636 (H.B. [1474](#)), Sec. 41, eff. October 1, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [1905](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.109. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMPTROLLER. (a) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that the comptroller believes is necessary for the enforcement or administration of Chapter 151, 152, 154, 155, or 162, Tax Code, including criminal history record information that relates to a person who is:

- (1) an applicant for a permit under any of those chapters;
 - (2) a permit holder under any 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 any of those chapters that is a corporation, association, joint venture, syndicate, partnership, or proprietorship;
 - (4) believed to have violated any of those chapters;
- or
- (5) being considered by the comptroller for employment as a peace officer.

(b) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an employee of or an applicant for employment with the comptroller's office in a position that involves:

- (1) handling currency, checks, or other funds;
- (2) having access to taxpayer account information;

(3) working in a location designated by the comptroller as a security-sensitive area; or

(4) performing financial management duties designated by the comptroller as security sensitive.

(c) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that the comptroller believes is necessary for the enforcement or administration of Chapter 159, Tax Code.

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

(e) The comptroller 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 77, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.12, eff. Sept. 1, 1997; Amended by Acts 2001, 77th Leg., ch. 442, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 6, eff. September 1, 2011.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 200 and S.B. 219, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.110. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES. (a) The Department of State Health Services is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person who is:

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

Safety Code);

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

(C) the holder of a license or certificate under that Act;

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

(3) an applicant for a license, the owner or manager of an applicant for a massage establishment license, or a license holder under Chapter 455, Occupations Code;

(4) an applicant for employment at or current employee of:

(A) the Texas Center for Infectious Disease; or

(B) the South Texas Health Care System; or

(5) an applicant for employment at, current employee of, or person who contracts or may contract to provide goods or services with:

(A) the vital statistics unit of the Department of State Health Services; or

(B) the Council on Sex Offender Treatment or other division or component of the Department of State Health Services that monitors sexually violent predators as described by Section [841.003\(a\)](#), Health and Safety Code.

(b) Criminal history record information obtained by the Department of State Health Services 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 Department of State Health Services shall destroy the criminal history record information that relates to that entity. The Department of State Health Services shall destroy the criminal history record information that relates to:

(1) an applicant for employment after that applicant is employed or, for an applicant who is not employed, after the check of the criminal history record information on that applicant

is completed; or

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

(d) The Department of State Health Services shall destroy criminal history record information that relates to an applicant who is not certified or employed, as applicable.

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

(f) The Department of State Health Services may not consider offenses for which points are assessed under Section 708.052, Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 282 (H.B. 164), Sec. 3(j), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1300 (H.B. 2696), Sec. 33, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 7.004, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1151 (H.B. 2917), Sec. 1, eff. June 19, 2009.

Sec. 411.1103. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES. (a) The Department of State Health Services 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 at a state hospital;

(B) an employee of a state hospital;

(C) a person who contracts or may contract to

provide goods or services to the Department of State Health Services at a state hospital or an employee of or applicant for employment with that person;

(D) a volunteer with a state hospital; or

(E) an applicant for a volunteer position with a state hospital; and

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

(b) Criminal history record information obtained by the Department of State Health Services under this section may not be released or disclosed to any person except:

(1) on court order;

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

(3) for purposes of an administrative hearing held by the Department of State Health Services concerning the person who is the subject of the criminal history record information; or

(4) as provided by Subsection (c).

(c) The Department of State Health Services is not prohibited from releasing criminal history record information obtained under this section to the person who is the subject of the criminal history record information.

(d) Subject to Section [411.087](#), the Department of State Health Services is entitled to:

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

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

(e) This section does not prohibit the Department of State Health Services from obtaining and using criminal history record information as provided by other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 395 (S.B. [152](#)), Sec. 5, eff. June 14, 2013.

Sec. 411.1105. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF STATE HEALTH SERVICES. (a) The Department of State Health Services 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 chemical dependency counselor's license, a counselor intern's registration, or a clinical supervisor certification under Chapter 504, Occupations Code; or

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

(b) In addition to information obtained from the Federal Bureau of Investigation under Section 411.087, the Department of State Health Services is entitled to obtain information relating to the wanted persons status of an individual listed in Subsection (a).

(c) Criminal history record information obtained by the Department of State Health Services 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).

(d) The Department of State Health Services may provide the applicant or licensee with a copy of the person's criminal history record information obtained from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency.

Added by Acts 1997, 75th Leg., ch. 18, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(33), eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.755, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1373 (S.B. 155), Sec. 23, eff. September 1, 2007.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.112. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON LAW ENFORCEMENT. The Texas Commission on Law Enforcement 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 1701, Occupations Code; or
- (2) the holder of a license under that chapter.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 9.0045, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. [686](#)), Sec. 2.23, eff. May 18, 2013.

Sec. 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, student teachers, educational interns, persons who perform ongoing educational projects at the school, 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, volunteer, student teacher, educational intern, or person who performs ongoing educational projects at the school with a copy of the respective criminal history record information obtained from the Department of Public Safety, the 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 or accept for placement, as applicable, with regard to school employees, professional consultants, applicants for permanent, temporary, or consultative employment, student teachers, educational interns, persons who perform ongoing educational projects at the school, 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1340, Sec. 7, eff. Sept. 1, 1997.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [219](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1131. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING.

(a) The Texas Commission for the Deaf and Hard of Hearing 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 staff position at an outdoor training

program for children who are deaf or hard of hearing conducted by a private entity through a contract with the commission in accordance with Section [81.013](#), Human Resources Code.

(b) Criminal history record information obtained by the Texas Commission for the Deaf and Hard of Hearing under Subsection (a) may be used only to evaluate an applicant for a staff position at an outdoor training program for children who are deaf or hard of hearing. The Texas Commission for the Deaf and Hard of Hearing may release or disclose the information to a private entity described by Subsection (a) for that purpose.

(c) The Texas Commission for the Deaf and Hard of Hearing may not release or disclose information obtained under Subsection (a), except on court order or with the consent of the person who is the subject of the criminal history record information, and shall destroy all criminal history record information obtained under Subsection (a) after the information is used for its authorized purpose.

Added by Acts 2003, 78th Leg., ch. 118, Sec. 13, eff. May 23, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 10.09, eff. June 19, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [206](#) and S.B. [219](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. (a)(1) In this subsection:

(A) "Child," "child-care facility," "child-placing agency," and "family home" have the meanings assigned by Section [42.002](#), Human Resources Code.

(B) "Elderly person" has the meaning assigned by Section [48.002](#), Human Resources Code.

(D) "Person with a disability" means a disabled person as defined by Section [48.002](#), Human Resources Code.

(E) "Ward" has the meaning assigned by Section

601, Texas Probate Code.

(2) The Department of Family and Protective Services shall 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, certification, or listing under Chapter 42, Human Resources Code;

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

(C) a person 14 years of age or older who will be regularly or frequently working or staying in a child-care facility or family home while children are being provided care, other than a child in the care of the home or facility;

(D) an applicant selected for a position with the Department of Family and Protective Services, the duties of which include direct delivery of protective services to children, elderly persons, or persons with a disability;

(E) an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with a business entity or person that contracts with the Department of Family and Protective Services to provide direct delivery of protective services to children, elderly persons, or persons with a disability, if the person's duties or responsibilities include direct contact with children, elderly persons, or persons with a disability;

(F) a registered volunteer with the Department of Family and Protective Services;

(G) a person providing or applying to provide in-home, adoptive, or foster care for children in the care of the Department of Family and Protective Services and other persons living in the residence in which the child will reside;

(H) a Department of Family and Protective Services employee who is engaged in the direct delivery of protective services to children, elderly persons, or persons with a disability;

(I) an alleged perpetrator in a report the Department of Family and Protective Services receives alleging that the person has abused, neglected, or exploited a child, an elderly person, or a person with a disability, provided that:

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

(ii) the person is not also the victim of the alleged conduct;

(J) a person providing child care for a child who is in the care of the Department of Family and Protective Services and who is or will be receiving adoptive, foster, or in-home care;

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

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

(4) Subject to Section [411.087](#), the Department of Family and Protective Services is entitled to:

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

(B) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to a person described by Subdivision (2) or (3). Law enforcement entities shall expedite the furnishing of such information to Department of Family and Protective Services workers to ensure prompt criminal background checks for the safety of alleged victims and Department of Family and Protective Services workers.

(5) The Department of Family and Protective Services

may not use the authority granted under this section to harass an employee or volunteer. The executive commissioner of the Health and Human Services Commission shall adopt rules to prevent the harassment of an employee or volunteer through the request and use of criminal records.

(6) Criminal history record information obtained by the Department of Family and Protective Services under this subsection may not be released to any person except:

(A) on court order;

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

(C) for purposes of an administrative hearing held by the Department of Family and Protective Services concerning the person who is the subject of the criminal history record information; or

(D) as provided by Subdivision (7).

(7) The Department of Family and Protective Services is not prohibited from releasing criminal history record information obtained under this subsection to:

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

(B) a child-care facility, child-placing agency, or family home listed in Subdivision (2) that employs or is considering employing the person who is the subject of the criminal history record information;

(C) a person or business entity described by Subdivision (2)(E) or (3) who uses or intends to use the services of the volunteer or employs or is considering employing the person who is the subject of the criminal history record information;

(D) an adult who resides with an alleged victim of abuse, neglect, or exploitation of a child, elderly person, or person with a disability and who also resides with the alleged perpetrator of that abuse, neglect, or exploitation if:

(i) the alleged perpetrator is the subject of the criminal history record information; and

(ii) the Department of Family and Protective Services determines that the release of information to

the adult is necessary to ensure the safety or welfare of the alleged victim or the adult; or

(E) an elderly or disabled person who is an alleged victim of abuse, neglect, or exploitation and who resides with the alleged perpetrator of that abuse, neglect, or exploitation if:

(i) the alleged perpetrator is the subject of the criminal history record information; and

(ii) the Department of Family and Protective Services determines that the release of information to the elderly or disabled person or adult is necessary to ensure the safety or welfare of the elderly or disabled person.

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

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

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

(C) a volunteer or applicant volunteer with an organization that provides court-appointed special advocates for abused or neglected children;

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

(E) a volunteer or applicant volunteer with a Texas chapter of the Make-a-Wish Foundation of America;

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

(G) a child who is related to the caretaker, as determined under Section 42.002, Human Resources Code, and who resides in or is present in a child-care facility or family home, other than a child described by Subdivision (2)(C), or any other person who has unsupervised access to a child in the care of a

child-care facility or family home;

(H) an applicant for a position with the Department of Family and Protective Services, other than a position described by Subdivision (2)(D), regardless of the duties of the position;

(I) a volunteer or applicant volunteer with the Department of Family and Protective Services, other than a registered volunteer, regardless of the duties to be performed;

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

(K) a Department of Family and Protective Services employee, other than an employee described by Subdivision (2)(H), regardless of the duties of the employee's position;

(L) a relative of a child in the care of the Department of Family and Protective Services, to the extent necessary to comply with Section 162.007, Family Code;

(M) a person, other than an alleged perpetrator in a report described in Subdivision (2)(I), living in the residence in which the alleged victim of the report resides;

(N) a contractor or an employee of a contractor who delivers services to a ward of the Department of Family and Protective Services under a contract with the estate of the ward;

(O) a person who seeks unsupervised visits with a ward of the Department of Family and Protective Services, including a relative of the ward;

(P) an employee, volunteer, or applicant volunteer of a children's advocacy center under Subchapter E, Chapter 264, Family Code, including a member of the governing board of a center;

(Q) an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with an entity or person that contracts with the Department of Family and Protective Services and has access to confidential information in the department's records, if the employee, applicant, volunteer, or applicant volunteer has or will have access to that confidential information;

(R) an employee of or volunteer at, or an applicant for employment with or to be a volunteer at, an entity that provides supervised independent living services to a young adult receiving extended foster care services from the Department of Family and Protective Services;

(S) a person 14 years of age or older who will be regularly or frequently working or staying in a host home that is providing supervised independent living services to a young adult receiving extended foster care services from the Department of Family and Protective Services; or

(T) a person who volunteers to supervise visitation under Subchapter B, Chapter 263, Family Code.

(b) 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 a volunteer of or an employee or applicant for permanent or temporary employment with the Department of Family and Protective Services, or a facility, home, business, or other entity, if the volunteer position, employment, or potential employment involves direct interaction with or the opportunity to interact and associate with children.

(c) The Department of Family and Protective Services may charge an organization or person that requests criminal history record information under Subsection (a)(3) a fee in an amount necessary to cover the costs of obtaining the information on the organization's or person's behalf.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 920, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 648, Sec. 1, eff. June 11, 1997; Acts 1997, 75th Leg., ch. 664, Sec. 7, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 96, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.06, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 691, Sec. 1, 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 144, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 185, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.69, eff.

September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 8.002, eff.

September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 598 (S.B. [218](#)), Sec. 8, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1056 (S.B. [221](#)), Sec. 2, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1082 (S.B. [1178](#)), Sec. 13, eff. September 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 9.003, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 191 (S.B. [352](#)), Sec. 6, eff. September 1, 2013.

Sec. 411.1141. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS JUVENILE JUSTICE DEPARTMENT. (a) The Texas Juvenile Justice Department is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person described by Section [242.010\(b\)](#), Human Resources Code;

(2) an applicant for a certification from the Texas Juvenile Justice Department;

(3) a holder of a certification from the Texas Juvenile Justice Department;

(4) a child committed to the custody of the Texas Juvenile Justice Department by a juvenile court;

(5) a person requesting visitation access to a facility of the Texas Juvenile Justice Department; or

(6) any person, as necessary to conduct an evaluation of the home under Section [245.051\(a\)](#), Human Resources Code.

(b) Criminal history record information obtained by the Texas Juvenile Justice Department under Subsection (a) may not be released to any person except:

(1) on court order;

(2) with the consent of the entity or person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held, or an investigation conducted, by the Texas Juvenile Justice Department concerning the person who is the subject of the criminal history record information;

(4) a juvenile board by which a certification applicant or holder is employed; or

(5) as provided by Subsection (c) or (f).

(c) The Texas Juvenile Justice Department is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

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

(2) a business entity or person described by Subsection (a)(1) who uses or intends to use the services of the volunteer or intern or employs or is considering employing the person who is the subject of the criminal history record information.

(d) The Texas Juvenile Justice Department may charge an entity or a person who requests criminal history record information under Subsection (c)(2) a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

(e) After a person is certified by the Texas Juvenile Justice Department, the Texas Juvenile Justice Department shall destroy the criminal history record information that relates to a person described by Subsection (a)(2).

(f) The Texas Juvenile Justice Department 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 Juvenile Justice Department.

Added by Acts 1997, 75th Leg., ch. 320, Sec. 1, eff. May 26, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(34), eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 16, eff. June 8, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 3.011,

eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1033 (H.B. 2733), Sec. 1, eff. September 1, 2013.

Sec. 411.1142. ACCESS TO CRIMINAL HISTORY RECORD: INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION. (a) The Interagency Council on Early Childhood Intervention 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 that relates to an employee or an applicant for permanent, temporary, or consultative employment or for volunteer positions whose employment or potential employment or volunteer position with the council or a local provider involves the delivery of early childhood intervention services or involves direct interactions with or the opportunity to interact and associate with children.

(b) Criminal history record information obtained by the council 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 council shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The council may provide the applicant, employee, professional consultant, or volunteer with a copy of the person's 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 council employees, professional consultants, and applicants for permanent, temporary, or consultative employment or for volunteer positions whose employment or potential employment or volunteer position with the council or a local provider involves the delivery of early childhood intervention services or involves direct

interactions with or the opportunity to interact and associate with children.

Added by Acts 1997, 75th Leg., ch. 923, Sec. 19, eff. Sept. 1, 1997.
Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(35), eff. Sept. 1, 1999.

Sec. 411.1143. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; AGENCIES OPERATING PART OF MEDICAL ASSISTANCE PROGRAM. (a) The Health and Human Services Commission, an agency operating part of the medical assistance program under Chapter 32, Human Resources Code, or the office of inspector general established under Chapter 531, Government Code, is entitled to obtain from the department the criminal history record information maintained by the department that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1) Criminal history record information an agency or the office of inspector general is authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1) a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2) a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

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

Added by Acts 1997, 75th Leg., ch. 1153, Sec. 2.04(b), eff. Sept. 1, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(36), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 879 (S.B. 223), Sec. 3.10, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 980 (H.B. 1720), Sec. 1, eff.

September 1, 2011.

Sec. 411.1144. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: AGENCIES WITH EMPLOYEES, CONTRACTORS, OR VOLUNTEERS AT STATE SUPPORTED LIVING CENTERS. (a) The Department of State Health Services, the Department of Aging and Disability Services, and the Health and Human Services Commission are 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 agency;

(B) an employee of the agency;

(C) a volunteer with the agency;

(D) an applicant for a volunteer position with the agency;

(E) an applicant for a contract with the agency;

or

(F) a contractor of the agency; and

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

(b) Criminal history record information obtained by an agency under Subsection (a) may not be released or disclosed to any person except:

(1) on court order;

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

(3) for purposes of an administrative hearing held by the agency concerning the person who is the subject of the criminal history record information; or

(4) as provided by Subsection (c).

(c) An agency is not prohibited from releasing criminal history record information obtained under Subsection (a) or (d) to the person who is the subject of the criminal history record information.

(d) Subject to Section 411.087, the Department of State Health Services, the Department of Aging and Disability Services,

and the Health and Human Services Commission are entitled to:

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

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

(e) This section does not prohibit an agency from obtaining and using criminal history record information as provided by other law.

Added by Acts 2009, 81st Leg., R.S., Ch. 284 (S.B. 643), Sec. 8, eff. June 11, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1027 (H.B. 2673), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1027 (H.B. 2673), Sec. 2, eff. June 14, 2013.

Sec. 411.1145. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE PRESERVATION BOARD. (a) The State Preservation Board is entitled to obtain criminal history record information maintained by the department that relates to a person who is an employee, volunteer, or intern, or an applicant to be an employee, volunteer, or intern, in a position that involves:

(1) handling money or checks;

(2) working in the Capitol or another area designated by the executive director as security sensitive; or

(3) direct contact with persons under 18 years of age.

(b) Criminal history record information obtained by the board under this section 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 information.

Added by Acts 2001, 77th Leg., ch. 1462, Sec. 8, eff. June 17, 2001.

Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGRICULTURE. (a) The Department of

Agriculture is entitled to obtain criminal history record information maintained by the Department of Public Safety that relates to a person who is a principal of a nongovernmental entity that is a participant in or applicant for participation in the Child and Adult Care Food Program as provided by Section 33.0271(e), Human Resources Code.

(b) Criminal history record information obtained by the Department of Agriculture under this section may not be released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the person who is the subject of the information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 870 (S.B. 77), Sec. 1, eff. September 1, 2011.

Sec. 411.1147. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS HISTORICAL COMMISSION. (a) The Texas Historical Commission is entitled to obtain criminal history record information maintained by the department or the identification division of the Federal Bureau of Investigation that relates to a person who is:

- (1) an employee, volunteer, or intern;
- (2) an applicant to be an employee, volunteer, or intern; or
- (3) a contractor or subcontractor for the commission.

(b) Criminal history record information obtained by the Texas Historical Commission under this section 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 information.

(c) The Texas Historical Commission shall collect and destroy criminal history record information that relates to a person immediately after the commission uses the information to make an employment or other decision related to the person or take a personnel action relating to the person who is the subject of the criminal history record information.

(d) The Texas Historical Commission may not obtain criminal history record information under this section unless the commission first adopts policies and procedures that provide that evidence of

a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from obtaining employment or another position or contract with the commission. The policies and procedures developed under this section must provide that the hiring official will determine whether the individual is qualified for employment based on factors including:

- (1) the specific duties of the position;
 - (2) the number of offenses committed by the individual;
 - (3) the nature and seriousness of each offense;
 - (4) the length of time between the offense and the employment decision;
 - (5) the efforts by the individual at rehabilitation;
- and
- (6) the accuracy of the information on the individual's employment application.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 1, eff. June 17, 2011.

Redesignated from Government Code, Section 411.1146 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(20), eff. September 1, 2013.

Sec. 411.115. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; LOCAL AUTHORITIES; COMMUNITY CENTERS. (a) In this section, "local mental health authority," "local mental retardation authority," and "community center" have the meanings assigned by Section 531.002, Health and Safety Code.

(b) The Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, 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, a local mental

health or mental retardation authority, or a community center;

(B) an employee of the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center;

(C) 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, a local mental health or mental retardation authority, 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;

(D) a volunteer with the Texas Department of Mental Health and Mental Retardation, a local mental health or mental retardation authority, or a community center; or

(E) a volunteer applicant; and

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

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(2).

(d) Criminal history record information obtained by the mental health department, a local mental health or mental retardation authority, or a community center under Subsection (b) may not be released or disclosed to a person, other than the contractor that employs the person 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, a local mental health or mental retardation authority, or a community center shall collect and destroy criminal history record information that relates to a person immediately after making an employment decision or taking a personnel action relating to the person who is the subject of the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 1209, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 296, Sec. 7, 13(2), eff. Sept. 1,

2003.

Sec. 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Sec. 411.117. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES. The Department of Assistive and Rehabilitative Services 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 services of the Department of Assistive and Rehabilitative Services;

(2) a client of the Department of Assistive and Rehabilitative Services; or

(3) an applicant for employment whose potential duties include direct contact with clients of the Department of Assistive and Rehabilitative Services.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 393, Sec. 25, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 391 (S.B. 128), Sec. 1, eff. June 14, 2013.

Sec. 411.118. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYER AT RESIDENTIAL DWELLING PROJECT. (a) In this section, "employer," "employee," "occupant," and "residential dwelling project" have the meanings assigned by Section 765.001, Health and Safety 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 residential dwelling project to whom an offer of employment is made; and

(2) may be reasonably required to have access to the residence of an occupant.

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(3).

(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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 572, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 296, Sec. 13(3), eff. Sept. 1, 2003.

Sec. 411.1181. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; APPLICANTS FOR EMPLOYMENT. (a) In this section, "in-home service company" and "residential delivery company" have the meanings assigned by Section 145.001, Civil Practice and Remedies Code.

(b) An in-home service company or residential delivery company is entitled to obtain from the Department of Public Safety criminal history record information maintained by the department that relates to:

(1) an officer of or person employed by the company

whose job duties require entry into another person's residence; or

(2) an applicant to whom an offer of employment is made for a position of employment with the company, the job duties of which require entry into another person's residence.

(c) Criminal history record information obtained by an in-home service company or residential delivery company under Subsection (b) may not be released or disclosed to any person except on court order, upon proper discovery request during litigation or with the consent of the person who is the subject of the criminal history record information.

(d) The in-home service company or residential delivery company shall destroy criminal history record information that relates to a person no sooner than two years after the person's office or employment with the company ends or the company determines not to employ the person, as applicable.

Added by Acts 2003, 78th Leg., ch. 228, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 751 (S.B. 627), Sec. 5, eff. September 1, 2009.

Sec. 411.1182. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMMERCIAL NUCLEAR POWER PLANT LICENSEES. (a) A commercial nuclear power plant licensee and its contractors, for security reasons and consistent with requirements of the United States Nuclear Regulatory Commission, are entitled to obtain from the department criminal history record information maintained by the department that relates to a person who has or is seeking employment at or access to the commercial nuclear power plant.

(b) The department shall place a high priority on requests under Subsection (a) and respond as expeditiously as possible; in no event shall the department respond later than two business days after the date the request is received by the department.

(c) Criminal history information obtained from the department may not be released or disclosed except:

(1) as needed in protecting the security of a commercial nuclear power plant;

(2) as authorized by the United States Nuclear

Regulatory Commission, a court order, or a federal or state law or order; or

(3) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2003, 78th Leg., ch. 1237, Sec. 3, eff. June 20, 2003. Renumbered from Government Code, Section 411.1181 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(29), eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.10, eff. June 19, 2009.

Sec. 411.119. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON PRIVATE SECURITY. The Texas Commission on Private Security is entitled to obtain from the department criminal history record information maintained by the department, including information maintained under Section 411.042(b)(5), that relates to:

(1) an applicant for a license, registration, security officer commission, letter of approval, permit, or handgun instructor certification under Chapter 1702, Occupations Code; or

(2) a person who holds a license, registration, security officer commission, letter of approval, permit, or handgun instructor certification under Chapter 1702, Occupations Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 388, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 974, Sec. 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.756, eff. Sept. 1, 2001.

Sec. 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, or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.11, eff. June 19, 2009.

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

(1) "Adjutant general" has the meaning assigned by Section 437.001.

(2) "State military forces" has the meaning assigned by Section 437.001.

(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 Texas military forces;

(2) an employee of the Texas Military Department;

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

(4) an applicant for employment with the Texas Military 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 2.02, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.03, eff. September 1, 2013.

Sec. 411.1211. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS VETERANS COMMISSION. (a) The Texas Veterans Commission is entitled to obtain from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by the department, division, or agency that relates to a person who:

(1) is an employee or an applicant for employment with the commission;

(2) is a consultant, intern, or volunteer for the commission or an applicant to serve as a consultant, intern, or volunteer;

(3) proposes to enter into a contract with or has a contract with the commission to perform services for or supply goods to the commission; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the commission.

(b) Criminal history record information obtained by the Texas Veterans Commission under Subsection (a) may not be released or disclosed to any person except:

(1) on court order;

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

(3) to a federal agency as required by federal law or executive order.

(c) The Texas Veterans Commission shall destroy criminal history record information obtained under this section after the

information is used for the purposes authorized by this section.

(d) The Texas Veterans Commission may provide a copy of the criminal history record information obtained from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or other law enforcement agency to the individual who is the subject of the information.

(e) The failure or refusal to provide the following on request constitutes good cause for dismissal or refusal to hire:

- (1) a complete set of fingerprints;
- (2) a true and complete name; or
- (3) other information necessary for a law enforcement

entity to provide a criminal history record.

Added by Acts 2009, 81st Leg., R.S., Ch. 67 (S.B. [2163](#)), Sec. 1, eff. May 19, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1902](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 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 listed in Subsection (d) or a political subdivision of this state covered by Chapter 53, Occupations Code, 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:

- (1) is an applicant for a license from the agency;
- (2) is the holder of a license from the agency; or
- (3) requests a determination of eligibility for a

license from the agency.

(b) A municipality or county that requires a sexually oriented business to obtain a license or other permit under Section [243.007](#), Local Government Code, 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 or other permit for a sexually oriented business issued by the municipality or county;

(2) is the holder of a license or other permit for a sexually oriented business issued by the municipality or county; or

(3) requests a determination of eligibility for a license or other permit for a sexually oriented business issued by the municipality or county.

(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 53.002, Occupations Code, to the extent provided by that section.

(d) The following state agencies are subject to this section:

(1) Texas Appraiser Licensing and Certification Board;

(2) Texas Board of Architectural Examiners;

(3) Texas Board of Chiropractic Examiners;

(4) State Board of Dental Examiners;

(5) Texas Board of Professional Engineers;

(6) Texas Funeral Service Commission;

(7) Texas Board of Professional Geoscientists;

(8) Department of State Health Services, except as provided by Section 411.110, and agencies attached to the department, including:

(A) Texas State Board of Examiners of Dietitians;

(B) Texas State Board of Examiners of Marriage and Family Therapists;

(C) Midwifery Board;

(D) Texas State Perfusionist Advisory Committee;

(E) Texas State Board of Examiners of Professional Counselors;

(F) Texas State Board of Social Worker Examiners;

(G) State Board of Examiners for Speech-Language Pathology and Audiology;

(H) Advisory Board of Athletic Trainers;

(I) State Committee of Examiners in the Fitting

and Dispensing of Hearing Instruments;

(J) Texas Board of Licensure for Professional Medical Physicists; and

(K) Texas Board of Orthotics and Prosthetics;

(9) Texas Board of Professional Land Surveying;

(10) Texas Department of Licensing and Regulation, except as provided by Section [411.093](#);

(11) Texas Commission on Environmental Quality;

(12) Texas Board of Occupational Therapy Examiners;

(13) Texas Optometry Board;

(14) Texas State Board of Pharmacy;

(15) Texas Board of Physical Therapy Examiners;

(16) Texas State Board of Plumbing Examiners;

(17) Texas State Board of Podiatric Medical Examiners;

(18) Texas State Board of Examiners of Psychologists;

(19) Texas Real Estate Commission;

(20) Texas Department of Transportation;

(21) State Board of Veterinary Medical Examiners;

(22) Texas Department of Housing and Community Affairs;

(23) secretary of state;

(24) state fire marshal;

(25) Texas Education Agency;

(26) Department of Agriculture; and

(27) Texas Department of Motor Vehicles.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.757, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 83, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 13(4), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 798 (S.B. [411](#)), Sec. 4.02, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 213 (S.B. [1005](#)), Sec. 26, eff. May 27, 2009.

Acts 2009, 81st Leg., R.S., Ch. 335 (H.B. [960](#)), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 450 (H.B. 2447), Sec. 38, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3E.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.006, eff. September 1, 2011.

Sec. 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) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(5). Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(5), eff. Sept. 1, 2003.

Sec. 411.1235. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER FIRE DEPARTMENTS. (a) A volunteer fire department or a fire department operated by an emergency services 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) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(6).

(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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(6), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1204, Sec. 2.001, eff. Sept. 1, 2003.

Sec. 411.1236. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON FIRE PROTECTION. (a) The Texas Commission on Fire Protection 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 or holder of a license issued under Chapter 419; or

(2) an applicant for employment by or an employee of the commission

(b) Criminal history record information obtained by the Texas Commission on Fire Protection under Subsection (a) 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, or if the information is entered into evidence by the board in an administrative, civil, or criminal hearing under Chapter 419.

(c), (d) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(7).

Added by Acts 1997, 75th Leg., ch. 1172, Sec. 2.08, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 8, 13(7), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 10.12, eff. June 19, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [2583](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1237. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY FIRE MARSHALS. (a) On request of the

department chief or chief executive of a fire department or an emergency medical services provider for an unincorporated area, a county fire marshal is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) an applicant for employment or membership with the requesting department or provider; or

(2) an employee or member of the requesting department or provider.

(b) The county fire marshal may disclose criminal history record information obtained under Subsection (a) to the department chief or chief executive of the requesting fire department or emergency medical services provider, except that the county fire marshal may disclose criminal history record information obtained by the department from the Federal Bureau of Investigation only to governmental entities or as authorized by federal law, federal executive order, or federal rule.

Added by Acts 2003, 78th Leg., ch. 951, Sec. 1, eff. Sept. 1, 2003.

Sec. 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 or from a law enforcement agency of the political subdivision with access to the information the 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) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(8).

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 559, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 296, Sec. 13(8), eff. Sept. 1, 2003.

Sec. 411.125. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF NURSING. The Texas Board of Nursing 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 or the holder of a license issued by 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.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(9), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1102, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. [2426](#)), Sec. 55, eff. September 1, 2007.

Sec. 411.126. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER CENTERS. (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; and

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

(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; or

(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) The department may establish rules governing the administration of this section and charge volunteer centers a fee to cover the department's direct costs of administering this program.

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

(e) 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.

(f) Subject to approval by the department, two or more volunteer centers may share technical and staff resources in the development and operation of services for the dissemination of criminal history record information.

(g) Except in the case of gross negligence or intentional misconduct, a volunteer center is not liable for damages arising from:

(1) the release or use of information obtained under this section;

(2) the failure to release or use information obtained under this section; or

(3) the failure to obtain information under this section.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 35, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 248, Sec. 2, eff. Sept. 1, 1995.

Sec. 411.127. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT AND CONTRACTORS. (a) The Title IV-D agency is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who is an applicant for a position of employment with the Title IV-D agency, or an applicant to serve as a consultant, intern, or volunteer, that involves the performance of duties under Chapter 231, Family Code. The Title IV-D agency may not request the information unless a supervisory employee of the agency has recommended that the applicant be hired or serve as an intern or volunteer.

(b) The Title IV-D agency is entitled to obtain from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who proposes to enter into a contract with or that has a contract with the Title IV-D agency to

supply goods or services to the Title IV-D agency. The authorization under this subsection to obtain criminal history record information about a person includes information relating to an employee or subcontractor of the person or an employee of the person's subcontractor.

(c) Criminal history record information obtained by the Title IV-D agency under Subsection (a) or (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) The Title IV-D agency shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(e) In this section, "Title IV-D agency" has the meaning assigned by Section 101.033, Family Code.

Added by Acts 1993, 73rd Leg., ch. 790, Sec. 42, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 556, Sec. 76, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1023, Sec. 74, eff. Sept. 1, 2001.

Sec. 411.1271. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: OFFICE OF THE ATTORNEY GENERAL. (a) The office of the attorney general is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who is an applicant for a position of employment with the office of the attorney general or an applicant to serve as a consultant, intern, or volunteer for the office.

(b) The office of the attorney general is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who proposes to enter into a contract with or who has a contract with the office of the attorney general to supply goods or services to the office of the attorney general. The authorization under this subsection to

obtain criminal history record information about a person includes information relating to an employee or subcontractor of the person or an employee of the person's subcontractor.

(b-1) The office of the attorney general is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who owes child support in a Title IV-D case, as defined by Section [101.034](#), Family Code, for the purposes of locating that person and establishing, modifying, or enforcing a child support obligation against that person.

(c) Criminal history record information obtained by the office of the attorney general under this section 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) The office of the attorney general shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 514 (S.B. [1081](#)), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 508 (H.B. [1674](#)), Sec. 21, eff. September 1, 2011.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1743](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1272. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: OFFICE OF CAPITAL WRITS AND PUBLIC DEFENDER'S OFFICES. The office of capital writs and a public defender's office are entitled to obtain from the department criminal history record information maintained by the department that relates to a criminal case in which an attorney compensated by the office of capital writs or by the public defender's office has been

appointed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. [1044](#)), Sec. 3, eff. September 1, 2013.

Sec. 411.128. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PERSON SEEKING TO ADOPT CHILD. (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.

Text of subsec. (c) as added by Acts 1995, 74th Leg., ch. 751, Sec.

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(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.

Text of subsec. (c) as added by Acts 1995, 74th Leg., ch. 908, Sec. 3

(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.

Added by Acts 1995, 74th Leg., ch. 751, Sec. 123; Acts 1995, 74th Leg., ch. 908, Sec. 3, eff. Sept. 1, 1995.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [1449](#), 84th Legislature, Regular Session, for amendments affecting this

section.

Sec. 411.1285. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DOMESTIC RELATIONS OFFICE. (a) A domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the department criminal history record information that relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code.

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

(c) Criminal history record information requested under this section, including information included in a report of a social study filed under Section 107.054, Family Code, may not be released or disclosed by a domestic relations office to a person other than the court ordering the social study except on court order or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1999, 76th Leg., ch. 318, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1040 (H.B. 1181), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 832 (H.B. 772), Sec. 10, eff. September 1, 2007.

Sec. 411.1286. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY COMMISSIONERS COURTS; COUNTY CHILD WELFARE BOARD MEMBERS. The commissioners court of a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a member of a county child welfare board appointed by the commissioners court under Section 264.005, Family Code.

Added by Acts 1999, 76th Leg., ch. 318, Sec. 1, eff. Sept. 1, 1999.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 2828, 84th

Legislature, Regular Session, for amendments affecting this
section.

Sec. 411.129. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY MUNICIPALITY. (a) Except as provided by Subsection (b), a municipality 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 employment by the municipality. Not later than September 1, 2000, the department shall make available through electronic means the information available to municipalities under this section.

(b) A municipality is not entitled to obtain under this section any information about a person if the municipality is entitled to obtain under another section of this subchapter any criminal history record information about the person.

Added by Acts 1995, 74th Leg., ch. 323, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(34), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1024, Sec. 1, eff. June 18, 1999.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [2828](#), 84th Legislature, Regular Session, for amendments affecting this
section.

Sec. 411.1295. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY COUNTY. (a) Except as provided by Subsection (b), a county 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 employment by the county.

(b) A county is not entitled to obtain under this section any information about a person if the county is entitled to obtain under another section of this subchapter any criminal history record information about the person.

Added by Acts 1999, 76th Leg., ch. 346, Sec. 1, eff. Aug. 30, 1999.

Sec. 411.1296. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYMENT BY APPRAISAL DISTRICT AND APPOINTMENT TO

APPRAISAL REVIEW BOARD. (a) Except as provided by Subsection (b), an appraisal district established by Section 6.01, Tax Code, 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 employment by the appraisal district or for appointment to the appraisal review board for the appraisal district.

(b) An appraisal district is not entitled to obtain under this section any information about a person if the appraisal district is entitled to obtain under another section of this subchapter any criminal history record information about the person.

(c) If the members of the appraisal review board of an appraisal district are appointed by the local administrative district judge, the appraisal district may provide criminal history record information obtained under this section to the local administrative district judge or to the appraisal review board commissioners appointed by the local administrative district judge.

Added by Acts 2003, 78th Leg., ch. 1037, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 898 (S.B. 682), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 898 (S.B. 682), Sec. 2, eff. June 17, 2011.

Sec. 411.130. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; CRIME VICTIMS' INSTITUTE. The Crime Victims' Institute is entitled to obtain from the department criminal history record information maintained by the department that the institute believes is necessary for the performance of the duties of the institute under Section 96.65, Education Code.

Added by Acts 1995, 74th Leg., ch. 485, Sec. 2, eff. Sept. 1, 1995.

Renumbered from Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(35), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 927, Sec. 3, eff. Sept. 1, 2003.

Sec. 411.1301. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN LOCAL GOVERNMENT CORPORATIONS ENGAGED IN CRIMINAL IDENTIFICATION ACTIVITIES. (a) This section applies only to a local government corporation that is created under Subchapter D, Chapter 431, Transportation Code, for governmental purposes relating to criminal identification activities, including forensic analysis, and that allocates a substantial part of its annual budget to those criminal identification activities.

(b) A local government corporation described by Subsection (a) is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an employee or an applicant for employment with the local government corporation;

(2) is a consultant, intern, or volunteer for the local government corporation or an applicant to serve as a consultant, intern, or volunteer;

(3) proposes to enter into a contract with or has a contract with the local government corporation to perform services for or supply goods to the local government corporation; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the local government corporation.

(c) Criminal history record information obtained by a local government corporation under Subsection (b) may not be released or disclosed to any person except:

(1) on court order; or

(2) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1188 (S.B. 1044), Sec. 4, eff. September 1, 2013.

Sec. 411.131. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAFE HOUSES. (a) In this section:

(1) "Safe house" means a nonprofit organization:

(A) whose primary purpose is to provide temporary shelter for children avoiding harmful situations;

(B) that is certified as a bona fide safe house by a local law enforcement agency; and

(C) that is operating as a "Safe House."

(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 safe house;

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

(C) any service that involves the care of or access to a child;

(D) coordination or referral of volunteers; or

(E) executive administrative responsibilities.

(b) A safe house is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is a volunteer or a volunteer applicant of the volunteer center, if the volunteer or applicant signs a written consent to a criminal history background check.

(c) Repealed by Acts 2003, 78th Leg., ch. 296, Sec. 13(10).

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

(e) A safe house 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.

(f) A safe house or an officer or volunteer of a safe house is not liable in a civil action for damages resulting from a failure to comply with this section if the safe house, officer, or volunteer makes a good faith effort to comply.

Added by Acts 1995, 74th Leg., ch. 691, Sec. 1, eff. Aug. 28, 1995. Renumbered from Government Code Sec. 411.128 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(36), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 296, Sec. 13(10), eff. Sept. 1, 2003.

Sec. 411.132. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE AUDITOR. (a) The state auditor is entitled to

obtain from the department criminal history record information for purposes of:

(1) performing risk assessment in devising the annual audit plan; or

(2) performing an investigation under Chapter 321 of specified acts or allegations of impropriety, malfeasance, or nonfeasance.

(b) The department and the state auditor shall enter into an agreement providing the state auditor with electronic access to the information that includes appropriate safeguards against unauthorized disclosure of the information.

(c) Except as provided by Subsection (d), information obtained by the state auditor 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.

(d) If, in the judgment of the state auditor, information obtained under Subsection (a) indicates a substantial risk to the interests of the state, the state auditor shall report the information to the legislative audit committee and to the administrative head of the affected agency. The reports are audit working papers of the state auditor.

(e) The state auditor shall destroy information obtained under Subsection (a) when the information is no longer needed for audit purposes or to support audit findings.

Added by Acts 1997, 75th Leg., ch. 1122, Sec. 9, eff. Sept. 1, 1997.

Sec. 411.133. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: REGIONAL TOLLWAY AUTHORITIES. (a) A regional tollway authority governed by Chapter 366, Transportation Code, is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who is:

(1) employed by the regional tollway authority; or

(2) an applicant for employment with the regional tollway authority.

(b) Criminal history record information obtained under

Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in a hearing conducted by the regional tollway authority, on court order, or with the consent of the person who is the subject of the criminal history record information.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.25, eff. Sept. 1, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(37), eff. Sept. 1, 1999.

Sec. 411.134. CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE LIBRARY AND ARCHIVES COMMISSION. (a) In this section:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Security-sensitive position" means a position of employment with the Texas State Library and Archives Commission held by an employee who:

(A) has access to the confidential records of state agencies that are stored by the commission;

(B) has access to any part of the archives of the state library as described in Section [441.010](#);

(C) has access to a computer terminal, if any information available from the terminal is required by law to remain confidential; or

(D) handles currency.

(b) The commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is employed in or 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 consent of the person who is the subject of the information.

(d) The commission shall destroy criminal history record information that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

Added by Acts 1997, 75th Leg., ch. 1366, Sec. 1, eff. Sept. 1, 1997. Renumbered from Sec. 411.132 by Acts 1999, 76th Leg., ch. 62, Sec.

19.01(38), eff. Sept. 1, 1999.

Sec. 411.135. ACCESS TO CERTAIN INFORMATION BY PUBLIC.

(a) Any person is entitled to obtain from the department:

(1) any information described as public information under Chapter 62, Code of Criminal Procedure, including, to the extent available, a recent photograph of each person subject to registration under that chapter; and

(2) criminal history record information maintained by the department that relates to the conviction of or a grant of deferred adjudication to a person for any criminal offense, including arrest information that relates to the conviction or grant of deferred adjudication.

(b) The department by rule shall design and implement a system to respond to electronic inquiries and other inquiries for information described by Subsection (a).

(c) A person who obtains information from the department under Subsection (a) may:

(1) use the information for any purpose; or

(2) release the information to any other person.

Added by Acts 1997, 75th Leg., ch. 747, Sec. 2, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 1415, Sec. 21, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.004, eff. September 1, 2013.

Sec. 411.136. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN HOSPITALS AND HOSPITAL DISTRICTS. (a) In this section:

(1) "Public hospital" means a hospital that is owned, operated, or leased by a county, municipality, or hospital authority.

(2) "Nonprofit hospital" means a hospital that is exempt from federal taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

(b) A public or nonprofit hospital or hospital district 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 employment or a volunteer position with the hospital or district;

(2) an employee of or a volunteer with the hospital or district;

(3) an applicant for employment with or an employee of a person or business that contracts with the hospital or district; or

(4) a student enrolled in an educational program or course of study who is at the hospital or a hospital owned or operated by the district for educational purposes.

(c) The public or nonprofit hospital or hospital district shall adopt a uniform method to obtain criminal history information from persons described by Subsection (b). The hospital or district may require the complete name, driver's license number, fingerprints, or social security number of those persons.

(d) The public or nonprofit hospital or hospital district may dismiss a person or deny a person employment or a volunteer position or refuse to allow a person to work in a hospital or district facility if:

(1) the person fails or refuses to provide information described by Subsection (c); or

(2) the person's criminal history record information reveals a conviction or deferred adjudication that renders the person unqualified or unsuitable for employment or a volunteer position or to be present at a hospital for educational purposes.

(e) All criminal history record information received by a public or nonprofit hospital or hospital district under this section is privileged, confidential, and intended for the exclusive use of the entity that obtained the information. The hospital or district may not release or disclose criminal history record information to any person or agency except in a criminal proceeding, in a hearing conducted by the hospital or district, to another governmental entity as required by law, as required by

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

(f) The public or nonprofit hospital or hospital district shall develop procedures for the custody and use of information obtained under this section. After use of the information, the hospital or district administrator or the administrator's designee shall destroy the information in accordance with the hospital's or district's document destruction procedures.

(g) A public or nonprofit hospital, a hospital district, a member of the governing board of the hospital or district, or an employee of a hospital or district is not civilly liable for failure to comply with this chapter if the hospital or district makes a good faith effort to comply.

Added by Acts 1999, 76th Leg., ch. 60, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 97, Sec. 1, eff. May 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.13, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 266 (H.B. 729), Sec. 1, eff. June 14, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 1549, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.138. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: JUVENILE BOARD OR JUVENILE PROBATION DEPARTMENT. A juvenile board or juvenile probation department 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 position with the juvenile probation department;

(2) an employee for whom the juvenile board or juvenile probation department will seek certification from the Texas Juvenile Probation Commission; or

(3) an employee or department applicant who currently holds certification from the Texas Juvenile Probation Commission.

Added by Acts 2001, 77th Leg., ch. 1297, Sec. 56, eff. Sept. 1, 2001.

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING COMMISSIONER. (a) The savings and mortgage lending commissioner 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 or holder of a license issued under Chapter 156 or 157, Finance Code.

(b) Criminal history record information obtained by the savings and mortgage lending commissioner under Subsection (a) with respect to the issuance of a license under Chapter 156, Finance Code, may be released or disclosed only as provided by Section [156.206](#), Finance Code.

Added by Acts 2003, 78th Leg., ch. 173, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 6.062, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. [10](#)), Sec. 21, eff. June 19, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [1438](#) and S.B. [219](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1386. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COURT CLERK; DEPARTMENT OF AGING AND DISABILITY SERVICES; GUARDIANSHIPS. (a) Except as provided by Subsections (a-1), (a-5), and (a-6), the clerk of the county having venue over a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code, shall obtain from the department criminal history record information maintained by the department that relates to:

- (1) a private professional guardian;
- (2) each person who represents or plans to represent

the interests of a ward as a guardian on behalf of the private professional guardian;

(3) each person employed by a private professional guardian who will:

(A) have personal contact with a ward or proposed ward;

(B) exercise control over and manage a ward's estate; or

(C) perform any duties with respect to the management of a ward's estate;

(4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf; or

(5) any other person proposed to serve as a guardian under Chapter XIII, Texas Probate Code, including a proposed temporary guardian and a proposed successor guardian, other than the ward's or proposed ward's family member or an attorney.

(a-1) The Department of Aging and Disability Services shall obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to each individual who is or will be providing guardianship services to a ward of or referred by the Department of Aging and Disability Services, including:

(1) an employee of or an applicant selected for an employment position with the Department of Aging and Disability Services;

(2) a volunteer or an applicant selected to volunteer with the Department of Aging and Disability Services;

(3) an employee of or an applicant selected for an employment position with a business entity or other person that contracts with the Department of Aging and Disability Services to provide guardianship services to a ward referred by the department; and

(4) a volunteer or an applicant selected to volunteer with a business entity or person described by Subdivision (3).

(a-2) The information in Subsection (a-1) regarding applicants for employment positions must be obtained before an

offer of employment, and the information regarding applicant volunteers must be obtained before the person's contact with a ward of or referred by the Department of Aging and Disability Services.

(a-3) The information in Subsection (a-1) regarding employees or volunteers providing guardianship services must be obtained annually.

(a-4) The Department of Aging and Disability Services shall provide the information obtained under Subsection (a-1) to:

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

(2) the guardianship certification program of the Judicial Branch Certification Commission at the request of the commission.

(a-5) Not later than the 10th day before the date of the hearing to appoint a guardian, a person may submit to the clerk a copy of the person's criminal history record information required under Subsection (a)(5) that the person obtains from the department not earlier than the 30th day before the date of the hearing.

(a-6) The clerk described by Subsection (a) is not required to obtain criminal history record information for a person who holds a certificate issued under Section 155.102 or a provisional certificate issued under Section 155.103 if the guardianship certification program of the Judicial Branch Certification Commission conducted a criminal history check on the person before issuing or renewing the certificate. The commission shall provide to the clerk at the court's request the criminal history record information that was obtained from the department or the Federal Bureau of Investigation.

(b) Criminal history record information obtained by or provided to a clerk under Subsection (a), (a-5), or (a-6) is for the exclusive use of the court and is privileged and confidential.

(c) Criminal history record information obtained by or provided to a clerk under Subsection (a), (a-5), or (a-6) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The clerk may destroy the criminal history record information after the information is used for the purposes

authorized by this section.

(d) The criminal history record information obtained under Subsection (a-4) is for the exclusive use of the court or guardianship certification program of the Judicial Branch Certification Commission, as appropriate, and is privileged and confidential. The information may not be released or otherwise disclosed to any person or agency except on court order, with the consent of the person being investigated, or as authorized by Subsection (a-6) or Section 698(a-6), Texas Probate Code. The county clerk or guardianship certification program of the Judicial Branch Certification Commission may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(e) The court, as that term is defined by Section 601, Texas Probate Code, shall use the information obtained or provided under Subsection (a), (a-4)(1), (a-5), or (a-6) only in determining whether to:

(1) appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Department of Aging and Disability Services; or

(2) appoint any other person proposed to serve as a guardian under Chapter XIII, Texas Probate Code, including a proposed temporary guardian and a proposed successor guardian, other than the ward's or proposed ward's family member or an attorney.

(f) Criminal history record information obtained by the guardianship certification program of the Judicial Branch Certification Commission under Subsection (a-4)(2) may be used for any purpose related to the issuance, denial, renewal, suspension, or revocation of a certificate issued by the commission.

(g) A person commits an offense if the person releases or discloses any information received under this section without the authorization prescribed by Subsection (c) or (d). An offense under this subsection is a Class A misdemeanor.

(h) The county clerk may charge a \$10 fee to recover the costs of obtaining criminal history information records authorized by Subsection (a).

(i) This section does not prohibit the Department of Aging and Disability Services from obtaining and using criminal history record information as provided by other law.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 361 (S.B. 291), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 511 (S.B. 1057), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.24, eff. September 1, 2014.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 219 and S.B. 1540, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGING AND DISABILITY SERVICES.

(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 required to undergo a background and criminal history check under Chapter 248A, Health and Safety Code.

(b) Criminal history record information obtained under Subsection (a) is for the exclusive use of the Department of Aging and Disability Services and is privileged and confidential.

(c) Criminal history record information obtained under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information. The Department of Aging and Disability Services may destroy the criminal history record information after the information is used for the purposes authorized by this section.

(d) This section does not prohibit the Department of Aging and Disability Services from obtaining and using criminal history record information as provided by other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1168 (S.B. 492), Sec. 2,

eff. September 1, 2013.

Sec. 411.1387. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: FACILITY, REGULATORY AGENCY, OR PRIVATE AGENCY. (a) In this section, "facility," "regulatory agency," and "private agency" have the meanings assigned by Section 250.001, Health and Safety Code.

(b) A regulatory agency 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 employment at or an employee of a facility other than a facility licensed under Chapter 142, Health and Safety Code; or

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

(b-1) A facility or a private agency on behalf of 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) an applicant for employment with, an employee of, or a volunteer with the facility;

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

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

(c) A facility may:

(1) obtain directly from the department criminal history record information on a person described by Subsection (b-1); or

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

(d) A private agency obtaining criminal history record information on behalf of a facility under Subsection (c) shall forward the information received to the facility requesting the information.

(e) Criminal history record information obtained by a facility, regulatory agency, or private agency on behalf of a facility under Subsection (b) or (b-1) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 266 (H.B. 729), Sec. 2, eff. June 14, 2013.

Sec. 411.1388. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INTERAGENCY COUNCIL ON SEX OFFENDER TREATMENT. (a) The Council on Sex Offender Treatment is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is licensed to provide mental health or medical services for the rehabilitation of sex offenders under Chapter 110, Occupations Code; or

(2) has applied for a license or renewal of a license to provide mental health or medical services for the rehabilitation of sex offenders under Chapter 110, Occupations Code.

(b) Criminal history record information obtained by the Interagency Council on Sex Offender Treatment under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

(c) The Interagency Council on Sex Offender Treatment shall destroy criminal history record information obtained under Subsection (a) not later than the first anniversary of the date the council makes a decision as to the person's eligibility for registration or the renewal of a registration.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 30, eff. September 1, 2005.

This section was amended by the 84th Legislature. Pending

publication of the current statutes, see S.B. [746](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1389. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: OFFICE OF VIOLENT SEX OFFENDER MANAGEMENT. (a) The Office of Violent Sex Offender Management is entitled to obtain from the department criminal history record information that is maintained by the department and that relates to a person who has applied with the office to be:

- (1) an employee of the office; or
- (2) a contracted service provider with the office.

(b) Criminal history record information obtained by the Office of Violent Sex Offender Management under Subsection (a) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

(c) The Office of Violent Sex Offender Management shall destroy criminal history record information obtained under Subsection (a) as soon as practicable after the date on which, as applicable:

- (1) the person's employment or contract with the office terminates; or
- (2) the office decides not to employ or contract with the person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1201 (S.B. [166](#)), Sec. 1, eff. September 1, 2011.

Sec. 411.139. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE SECURITIES BOARD. (a) The securities 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 certificate of registration under The Securities Act (Article [581-1](#) et seq., Vernon's Texas Civil Statutes);

- (2) a holder of a certificate of registration under The Securities Act (Article [581-1](#) et seq., Vernon's Texas Civil

Statutes);

(3) an applicant for employment by the State Securities Board; or

(4) an employee of the State Securities Board.

(b) Criminal history record information obtained by the securities commissioner under this section may not be released by 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, unless the information is entered into evidence by the State Securities Board or a court at an administrative proceeding or a civil or criminal action under The Securities Act (Article [581-1](#) et seq., Vernon's Texas Civil Statutes).

Added by Acts 2001, 77th Leg., ch. 1091, Sec. 2.23, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 411.137 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(57), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 10.14, eff. June 19, 2009.

Sec. 411.1391. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS FACILITIES COMMISSION. (a) The Texas Facilities Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an employee or an applicant for employment with the commission;

(2) is a consultant, intern, or volunteer for the commission or an applicant to serve as a consultant, intern, or volunteer;

(3) proposes to enter into a contract with or has a contract with the commission to perform services for or supply goods to the commission; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the commission.

(b) Criminal history record information obtained by the Texas Facilities Commission under Subsection (a) may not be

released or disclosed to any person except:

(1) on court order; or

(2) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 541 (H.B. 2632), Sec. 1, eff. June 17, 2011.

Sec. 411.140. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE COMMISSION ON JUDICIAL CONDUCT. (a) The State Commission on Judicial Conduct is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a judge who is the subject of an investigation or proceeding under Chapter 33; or

(2) the complainant or a witness in an investigation or a proceeding under Chapter 33.

(b) Information received by the State Commission on Judicial Conduct is confidential and may be disseminated only in an investigation or proceeding conducted by the commission or with the consent of the person who is the subject of the criminal history record information.

(c) The State Commission on Judicial Conduct shall destroy criminal history record information obtained under this section promptly after a final determination is made in the matter for which the information was obtained.

Added by Acts 2001, 77th Leg., ch. 917, Sec. 19, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 411.137 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(58), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.15, eff. June 19, 2009.

Sec. 411.1401. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PROGRAMS PROVIDING ACTIVITIES FOR CHILDREN. (a) In this section, "activity provider" means a nonprofit program that includes as participants or recipients persons who are younger than 17 years of age and that regularly provides athletic, civic, or

cultural activities.

(b) An activity provider is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is a volunteer or a volunteer applicant of the activity provider.

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

(d) An activity provider may use criminal history record information obtained under this section only to determine the suitability of a person for a position as a volunteer and 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 a determination of suitability is made.

(e) Criminal history record information obtained under this section may not be released or disclosed to any person except in a criminal proceeding, on court order, or with the consent of the person who is the subject of the criminal history record information.

(f) An employee, officer, or volunteer of an activity provider is not liable in a civil action for damages resulting from a failure to comply with this section unless the act or omission of the employee, officer, or volunteer was intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

Added by Acts 2003, 78th Leg., ch. 296, Sec. 10, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 838, Sec. 1, eff. June 30, 2003.

Sec. 411.1402. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYEES RETIREMENT SYSTEM OF TEXAS. (a) The Employees Retirement System of Texas is entitled to obtain from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by the department, division, or agency that relates to a person who is:

(1) an applicant for employment with, or who is or has been employed by, the retirement system;

(2) a consultant, contract employee, independent

contractor, intern, or volunteer for the retirement system or an applicant to serve in one of those positions; or

(3) a candidate for appointment or election to the board of trustees of the retirement system or an advisory committee to that board.

(b) Criminal history record information obtained by the Employees Retirement System of Texas under Subsection (a) may be used only to evaluate an applicant for employment with, or a current or former employee of, the retirement system.

(c) The Employees Retirement System of Texas may not release or disclose information obtained under Subsection (a) except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) After the expiration of any probationary term of the person's employment or not later than the 180th day after the date of receipt of the information, whichever is later, the Employees Retirement System of Texas shall destroy all criminal history record information obtained under Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 347 (S.B. [1176](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 10.16, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. [1459](#)), Sec. 1, eff. September 1, 2013.

Sec. 411.1404. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF INFORMATION RESOURCES. (a) The Department of Information Resources is entitled to obtain from the department or the identification division of the Federal Bureau of Investigation the criminal history record information maintained by the department or division that relates to a person who is an employee, applicant for employment, contractor, subcontractor, intern, or other volunteer with the Department of Information Resources or with a contractor or subcontractor for the Department of Information Resources.

(b) Criminal history record information obtained by the

Department of Information Resources under this section may not be released or disclosed except:

(1) by court order; or

(2) with the consent of the person who is the subject of the information.

(c) The Department of Information Resources shall destroy criminal history record information obtained under this section that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

(d) The Department of Information Resources may not obtain criminal history record information under this section unless the Department of Information Resources first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. The policies and procedures adopted under this subsection must provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on factors that include:

(1) the specific duties of the position;

(2) the number of offenses committed by the individual;

(3) the nature and seriousness of each offense;

(4) the length of time between the offense and the employment decision;

(5) the efforts by the individual at rehabilitation; and

(6) the accuracy of the information on the individual's employment application.

Added by Acts 2009, 81st Leg., R.S., Ch. 183 (H.B. 1830), Sec. 2, eff. September 1, 2009.

Sec. 411.1405. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE AGENCIES; INFORMATION TECHNOLOGY EMPLOYEES.

(a) In this section:

(1) "Information resources" and "information

resources technologies" have the meanings assigned by Section [2054.003](#).

(2) "State agency" means a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch of state government that is created by the constitution or a statute of this state, including a university system or institution of higher education as defined by Section [61.003](#), Education Code.

(b) To the extent consistent with Subsection (e), a state agency is entitled to obtain from the department the criminal history record information maintained by the department that relates to a person who:

(1) is an employee, applicant for employment, contractor, subcontractor, or intern or other volunteer with the state agency or with a contractor or subcontractor for the state agency; and

(2) has access to information resources or information resources technologies, other than a desktop computer or telephone station assigned to that person.

(c) A state agency that obtains criminal history record information under this section may not release or disclose the information or any documents or other records derived from the information except:

(1) by court order;

(2) with the consent of the person who is the subject of the information; or

(3) to the affected contractor or subcontractor, unless the information was obtained by the department from the Federal Bureau of Investigation.

(d) A state agency and the affected contractor or subcontractor shall destroy criminal history record information obtained under this section that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

(e) A state agency may not obtain criminal history record information under this section unless the state agency first adopts

policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. The attorney general shall review the policies and procedures for compliance with due process and other legal requirements before adoption by the state agency. The attorney general may charge the state agency a fee to cover the cost of the review. The policies and procedures adopted under this subsection must provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on factors that include:

- (1) the specific duties of the position;
 - (2) the number of offenses committed by the individual;
 - (3) the nature and seriousness of each offense;
 - (4) the length of time between the offense and the employment decision;
 - (5) the efforts by the individual at rehabilitation;
- and
- (6) the accuracy of the information on the individual's employment application.

(f) A criminal history record information provision in another law that is more specific to a state agency, including Section [411.089](#), prevails over this section to the extent of any conflict.

Added by Acts 2003, 78th Leg., ch. 87, Sec. 1, eff. Sept. 1, 2003.

Sec. 411.1406. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY ATTORNEY IN COUNTY WITH POPULATION OF 3.3 MILLION OR MORE. A county attorney in a county with a population of 3.3 million or more is entitled to obtain from the department criminal history record information maintained by the department that relates to:

- (1) a matter falling within the authority of the county attorney as specified by Section [45.201](#); or
- (2) a person who is an applicant for employment by the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 416 (S.B. [1196](#)), Sec. 1, eff. June 15, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 926 (H.B. [3211](#)), Sec. 1, eff. June 15, 2007.

Sec. 411.1407. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CREDIT UNION DEPARTMENT. (a) The credit union 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 individual who applies to incorporate a credit union under Subtitle D, Title 3, Finance Code;

(2) a board member of a credit union incorporated under Subtitle D, Title 3, Finance Code;

(3) an applicant for employment by the credit union department; or

(4) an employee of the credit union department.

(b) Criminal history record information obtained by the credit union commissioner under this section may not be released by any person except:

(1) on court order, unless the information is entered into evidence by the credit union department or a court at an administrative proceeding or a civil or criminal action under Subtitle D, Title 3, Finance Code; or

(2) with the consent of the person who is the subject of the criminal history record information.

Added by Acts 2007, 80th Leg., R.S., Ch. 285 (H.B. [716](#)), Sec. 3, eff. September 1, 2007.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1296](#), 84th Legislature, Regular Session, for amendments affecting this section.

Text of section as renumbered by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 27.001

Sec. 411.1408. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: JUDICIAL BRANCH CERTIFICATION COMMISSION. (a) In

this section, "commission" means the Judicial Branch Certification Commission established under Chapter 152.

(b) The 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 or the holder of a certificate, registration, or license issued by the commission or otherwise under Subtitle K, Title 2.

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

(1) may be used by the commission for any purpose related to the issuance, denial, suspension, revocation, or renewal of a certificate, registration, or license issued by the commission or otherwise under Subtitle K, Title 2;

(2) may not be released or disclosed to any person except:

(A) on court order;

(B) with the consent of the person who is the subject of the information; or

(C) as authorized by Section [411.1386\(a-6\)](#) of this code or Section 698(a-6), Texas Probate Code, if applicable; and

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

Added by Acts 2007, 80th Leg., R.S., Ch. 15 (S.B. [505](#)), Sec. 1, eff. April 25, 2007.

Renumbered from Government Code, Section [411.1406](#) by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. [27.001\(23\)](#), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 511 (S.B. [1057](#)), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. [966](#)), Sec. 2.25, eff. September 1, 2014.

Sec. 411.1409. ACCESS TO CRIMINAL HISTORY INFORMATION: APPELLATE COURTS. (a) In this section, "appellate court" means the Supreme Court of Texas, the Texas Court of Criminal Appeals, or a

court of appeals.

(b) An appellate court 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:

- (1) employment with the court;
- (2) a volunteer position with the court; or
- (3) an appointment made by the court.

(c) Criminal history record information obtained by the court under Subsection (b) may be used only to evaluate an applicant.

(d) The court may not release or disclose information obtained under Subsection (b) except on order of a district court or with the consent of the person who is the subject of the criminal history record information.

(e) After the expiration of any probationary term of the person's employment, volunteer status, or appointment, the court shall destroy all criminal history record information obtained under Subsection (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 406 (S.B. 885), Sec. 1, eff. September 1, 2007.

Renumbered from Government Code, Section 411.1406 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(24), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 10.17, eff. June 19, 2009.

Sec. 411.1410. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: UNITED STATES ARMED FORCES. (a) In this section, "agency of the United States armed forces" means the United States Army, the United States Navy, the United States Marine Corps, the United States Coast Guard, or the United States Air Force.

(b) Subject to Subsection (c), an agency of the United States armed forces, including a recruiter for the agency, 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 enlistment in the United States armed

forces.

(c) An agency of the United States armed forces is entitled to criminal history record information under Subsection (b) only if the agency submits to the department a signed statement from the applicant that authorizes the agency to obtain the information.

(d) Criminal history record information obtained by an agency of the United States armed forces 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) An agency of the United States armed forces shall destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

Added by Acts 2013, 83rd Leg., R.S., Ch. 871 (H.B. 694), Sec. 3, eff. June 14, 2013.

SUBCHAPTER G. DNA DATABASE SYSTEM

Sec. 411.141. DEFINITIONS. In this subchapter:

(1) "CODIS" means the FBI's Combined DNA Index System. The term includes the national DNA index system sponsored by the FBI.

(2) "Conviction" includes conviction by a jury or a court, a guilty plea, a plea of nolo contendere, or a finding of not guilty by reason of insanity.

(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 part of its annual budget to the administration of criminal justice;

(B) a secure correctional facility as defined by Section 1.07, Penal Code; or

(C) a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office.

(4) "DNA" means deoxyribonucleic acid.

(5) "DNA database" means one or more databases that contain forensic DNA records maintained by the director.

(6) "DNA laboratory" means a laboratory that performs forensic DNA analysis on samples or specimens derived from a human body, physical evidence, or a crime scene. The term includes a department crime laboratory facility that conducts forensic DNA analysis.

(7) "DNA record" means the results of a forensic DNA analysis performed by a DNA laboratory. The term includes a DNA profile and related records, which may include a code or other identifying number referenced to a separate database to locate:

(A) the originating entity; and

(B) if known, the name and other personally identifying information concerning the individual who is the subject of the analysis.

(8) "DNA sample" means a blood sample or other biological sample or specimen provided by an individual under this subchapter or submitted to the director under this subchapter for DNA analysis or storage.

(9) "FBI" means the Federal Bureau of Investigation.

(10) "Forensic analysis" has the meaning assigned by Article 38.35, Code of Criminal Procedure.

(11) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(12) "Penal institution" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1209 (S.B. 727), Sec. 9, eff. September 1, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 941, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.142. DNA DATABASE. (a) The director shall record DNA data and establish and maintain a computerized database that serves as the central depository in the state for DNA records.

(b) The director may maintain the DNA database in the department's crime laboratory in Austin or another suitable location.

(c) The director may receive, analyze, store, and destroy a record or DNA sample for the purposes described by Section 411.143.

(d) The DNA database must be capable of classifying, matching, and storing the results of analyses of DNA.

(e) The director, with advice from the Department of Information Resources, shall develop biennial plans to:

(1) improve the reporting and accuracy of the DNA database; and

(2) develop and maintain a monitoring system capable of identifying inaccurate or incomplete information.

(f) The DNA database must be compatible with the national DNA identification index system (CODIS) used by the FBI to the extent required by the FBI to permit the useful exchange and storage of DNA records or information derived from those records.

(g) The DNA database may contain DNA records for the following:

(1) an individual described by this subchapter, including Section 411.1471, 411.148, or 411.154;

(2) a biological specimen of a deceased victim of a crime;

(3) a biological specimen that is legally obtained in the investigation of a crime, regardless of origin;

(4) results of testing ordered by a court under this subchapter, Article 64.03, Code of Criminal Procedure, or other law permitting or requiring the creation of a DNA record;

(5) an unidentified missing person, or unidentified skeletal remains or body parts;

(6) a close biological relative of a person who has been reported missing to a law enforcement agency;

(7) a person at risk of becoming lost, such as a child or a person declared by a court to be mentally incapacitated, if the

record is required by court order or a parent, conservator, or guardian of the person consents to the record; or

(8) an unidentified person, if the record does not contain personal identifying information.

(h) The director shall establish standards for DNA analysis by the DNA laboratory that meet or exceed the current standards for quality assurance and proficiency testing for forensic DNA analysis issued by the FBI. The DNA database may contain only DNA records of DNA analyses performed according to the standards adopted by the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 2, Sec. 4, eff. April 5, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. 3295), Sec. 1, eff. June 15, 2007.

Sec. 411.143. PURPOSES. (a) The principal purpose of the DNA database is to assist a federal, state, or local criminal justice agency in the investigation or prosecution of sex-related offenses or other offenses in which biological evidence is recovered.

(b) In criminal cases, the purposes of the DNA database are only for use in the investigation of an offense, the exclusion or identification of suspects or offenders, and the prosecution or defense of the case.

(c) Other purposes of the database include:

(1) assisting in the recovery or identification of human remains from a disaster or for humanitarian purposes;

(2) assisting in the identification of living or deceased missing persons;

(3) if personal identifying information is removed:

(A) establishing a population statistics database; and

(B) assisting in identification research, forensic validation studies, or forensic protocol development; and

(4) retesting to validate or update the original analysis or assisting in database or DNA laboratory quality control.

(d) The information contained in the DNA database may not be collected, analyzed, or stored to obtain information about human physical traits or predisposition for disease unless the purpose for obtaining the information is related to a purpose described by this section.

(e) The director may not store a name or other personal identifying information in the CODIS database. A file or reference number to another information system may be included in the CODIS database only if the director determines the information is necessary to:

- (1) generate an investigative lead or exclusion;
- (2) support the statistical interpretation of a test result; or
- (3) allow for the successful implementation of the DNA database.

(f) Except as provided by this subchapter, the DNA database may not include criminal history record information.

(g) A party contracting to carry out a function of another entity under this subchapter shall comply with:

- (1) a requirement imposed by this subchapter on the other entity, unless the party or other entity is exempted by the director; and
- (2) any additional requirement imposed by the director on the party.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 6, eff. September 1, 2005.

Sec. 411.144. REGULATION OF DNA LABORATORIES; PENALTIES.

(a) The director by rule shall establish procedures for a DNA laboratory or criminal justice agency in the collection, preservation, shipment, analysis, and use of a DNA sample for forensic DNA analysis in a manner that permits the exchange of DNA

evidence between DNA laboratories and the use of the evidence in a criminal case.

(b) A DNA laboratory or criminal justice agency shall follow the procedures:

(1) established by the director under this section; and

(2) specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies, and computer software.

(c) The director may at any reasonable time enter and inspect the premises or audit the records, reports, procedures, or other quality assurance matters of any DNA laboratory that:

(1) provides DNA records to the director under this subchapter; or

(2) conducts forensic analysis.

(d) A DNA laboratory conducting a forensic DNA analysis under this subchapter shall:

(1) forward the DNA record of the analysis to the director at the department's crime laboratory or another location as required by the director; and

(2) comply with this subchapter and rules adopted under this subchapter.

(e) The director is the Texas liaison for DNA data, records, evidence, and other related matters between:

(1) the FBI; and

(2) a DNA laboratory or a criminal justice agency.

(f) The director may:

(1) conduct DNA analyses; or

(2) contract with a laboratory, state agency, private entity, or institution of higher education for services to perform DNA analyses for the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 7, eff. September 1, 2005.

This section was amended by the 84th Legislature. Pending

publication of the current statutes, see H.B. 2299 and S.B. 1287, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.145. FEES. (a) The director may collect a reasonable fee under this subchapter for:

(1) the DNA analysis of a DNA sample submitted voluntarily to the director; or

(2) providing population statistics data or other appropriate research data.

(b) If the director provides a copy of an audit or other report made under this subchapter, the director may charge \$6 for the copy, in addition to any other cost permitted under Chapter 552 or a rule adopted under that chapter.

(c) A fee collected under this section shall be deposited in the state treasury to the credit of the state highway fund, and money deposited to the state highway fund under this section and under Articles 42.12 and 102.020(h), Code of Criminal Procedure, may be used only to defray the cost of administering this subchapter and Section 411.0205.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 8, eff. September 1, 2005.

Sec. 411.146. DNA SAMPLES. (a) The director may not accept a DNA record or DNA sample collected from an individual who at the time of collection is alive, unless the director reasonably believes the sample was submitted voluntarily or as required by this subchapter and is:

(1) a blood sample collected in a medically approved manner by:

(A) a physician, registered nurse, licensed vocational nurse, licensed clinical laboratory technologist; or

(B) an individual who is trained to properly collect blood samples under this subchapter; or

(2) a specimen other than a blood sample collected:

(A) in a manner approved by the director by rule adopted under this section; and

(B) by an individual who is trained to properly collect the specimen under this subchapter.

(b) The director shall provide at no cost to a person collecting a DNA sample as described by Subsection (a) the collection kits, labels, report forms, instructions, and training for collection of DNA samples under this section.

(c)(1) The director shall adopt rules regarding the collection, preservation, shipment, and analysis of a DNA database sample under this subchapter, including the type of sample or specimen taken.

(2) A criminal justice agency permitted or required to collect a DNA sample for forensic DNA analysis under this subchapter:

(A) may collect the sample or contract with a phlebotomist, laboratory, state agency, private entity, or institution of higher education for services to collect the sample at the time determined by the agency; and

(B) shall:

(i) preserve each sample collected until it is forwarded to the director under Subsection (d); and

(ii) maintain a record of the collection of the sample.

(d) A criminal justice agency that collects a DNA sample under this section shall send the sample to:

(1) the director at the department's crime laboratory;

or

(2) another location as required by the director by rule.

(e) A DNA laboratory may analyze a DNA sample collected under this section only:

(1) to type the genetic markers contained in the sample;

(2) for criminal justice or law enforcement purposes;

or

(3) for other purposes described by this subchapter.

(f) If possible, a second DNA sample must be collected from an individual in a criminal investigation if forensic DNA evidence is necessary for use as substantive evidence in the investigation, prosecution, or defense of a case.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 9, eff. September 1, 2005.

Sec. 411.147. ACCESS TO DNA DATABASE INFORMATION. (a) The director by rule shall establish procedures:

(1) to prevent unauthorized access to the DNA database; and

(2) to release from the DNA database a DNA sample, analysis, record, or other information maintained under this subchapter.

(b) The director may adopt rules relating to the internal disclosure, access, or use of a sample or DNA record in a DNA laboratory.

(c) The director may release a DNA sample, analysis, or record only:

(1) to a criminal justice agency for criminal justice or law enforcement identification purposes;

(2) for a judicial proceeding, if otherwise admissible under law;

(3) for criminal defense purposes to a defendant, if related to the case in which the defendant is charged or released from custody under Article 17.47, Code of Criminal Procedure, or other court order; or

(4) for another purpose:

(A) described in Section 411.143; or

(B) required under federal law as a condition for obtaining federal funding.

(d) The director may release a record of the number of requests made for a defendant's individual DNA record and the name of the requesting person.

(e) A criminal justice agency may have access to a DNA sample for a law enforcement purpose through:

- (1) the agency's laboratory; or
- (2) a laboratory used by the agency.

(f) The director shall maintain a record of requests made under this section.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. 1068), Sec. 10, eff. September 1, 2005.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 941, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1471. DNA RECORDS OF PERSONS CHARGED WITH OR CONVICTED OF CERTAIN FELONIES. (a) This section applies to a defendant who is:

(1) indicted or waives indictment for a felony prohibited or punishable under any of the following Penal Code sections:

- (A) Section 20.04(a)(4);
- (B) Section 21.11;
- (C) Section 22.011;
- (D) Section 22.021;
- (E) Section 25.02;
- (F) Section 30.02(d);
- (G) Section 43.05;
- (H) Section 43.25;
- (I) Section 43.26;
- (J) Section 21.02; or
- (K) Section 20A.03;

(2) arrested for a felony described by Subdivision (1) after having been previously convicted of or placed on deferred adjudication for an offense described by Subdivision (1) or an offense punishable under Section 30.02(c)(2), Penal Code; or

(3) convicted of an offense under Section 21.07 or

[21.08](#), Penal Code.

(b) After a defendant described by Subsection (a)(1) is indicted or waives indictment, the court in which the case is pending shall require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record. A law enforcement agency arresting a defendant described by Subsection (a)(2), immediately after fingerprinting the defendant and at the same location as the fingerprinting occurs, shall require the defendant to provide one or more specimens for the purpose of creating a DNA record. After a defendant described by Subsection (a)(3) is convicted or placed on deferred adjudication, the court shall require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record.

(c) A defendant described by Subsection (a)(1) or (3) may at any time voluntarily provide a specimen for the purposes described by Subsection (b).

(d) The director by rule shall require law enforcement agencies taking a specimen under this section to preserve the specimen and maintain a record of the collection of the specimen. A law enforcement agency taking a specimen under this section may use any method to take the specimen approved by the director in the rule adopted under this subsection. The rule adopted by the director must prohibit a law enforcement agency from taking a blood sample for the purpose of creating a DNA record under this section. The agency may either send the specimen to the director or send to the director an analysis of the sample performed at a laboratory chosen by the agency and approved by the director.

(e) Notwithstanding Subsection (d), on acquittal of a defendant described by Subsection (a)(1) or (2) or dismissal of the case against the defendant, the court shall order the law enforcement agency taking the specimen to immediately destroy the record of the collection of the specimen and require the department to destroy the specimen and the record of its receipt.

(f) A defendant who provides a DNA sample under this section is not required to provide a DNA sample under Section [411.148](#) unless an attorney representing the state in the prosecution of felony

offenses establishes to the satisfaction of the director that the interests of justice or public safety require that the defendant provide additional samples.

Added by Acts 2001, 77th Leg., ch. 1490, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.34, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. 3295), Sec. 2, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 7, eff. September 1, 2011.

Sec. 411.1473. DNA RECORDS OF CERTAIN REGISTERED SEX OFFENDERS. (a) This section applies only to a person who is required to register under Chapter 62, Code of Criminal Procedure.

(b) The department by rule shall require a law enforcement agency serving as a person's primary registration authority under Chapter 62, Code of Criminal Procedure, to:

(1) take one or more specimens from a person described by Subsection (a) for the purpose of creating a DNA record; and

(2) preserve the specimen and maintain a record of the collection of the specimen.

(c) A law enforcement agency taking a specimen under this section may either send the specimen to the director or send to the director an analysis of the specimen performed by a laboratory chosen by the agency and approved by the director.

(d) A law enforcement agency is not required to take and a person is not required to provide a specimen under this section if the person is required to and has provided a specimen under this chapter or other law.

Added by Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 1.05, eff. September 1, 2005.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 1549, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.148. MANDATORY DNA RECORD. (a) This section applies to:

(1) an individual, other than a juvenile, who is:

(A) ordered by a magistrate or court to provide a DNA sample under Section 411.154 or other law, including as part of an order granting community supervision to the individual; or

(B) confined in a penal institution operated by or under contract with the Texas Department of Criminal Justice; or

(2) a juvenile who, following an adjudication for conduct constituting a felony, is:

(A) confined in a facility operated by or under contract with the Texas Youth Commission; or

(B) placed on probation, if the conduct constitutes a felony described by Section 54.0409, Family Code.

(b) An individual described by Subsection (a) shall provide one or more DNA samples for the purpose of creating a DNA record.

(c) A criminal justice agency shall collect a sample ordered by a magistrate or court in compliance with the order.

(d) If an individual described by Subsection (a)(1)(B) is received into custody by the Texas Department of Criminal Justice, that department shall collect the sample from the individual during the diagnostic process or at another time determined by the Texas Department of Criminal Justice. If an individual described by Subsection (a)(2)(A) is received into custody by the Texas Youth Commission, the youth commission shall collect the sample from the individual during the initial examination or at another time determined by the youth commission. If an individual who is required under this section or other law to provide a DNA sample is in the custody or under the supervision of another criminal justice agency, such as a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office, that agency shall collect the sample from the individual at a time determined by the agency.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1209, Sec. 11, eff. September 1, 2009.

(f) The Texas Department of Criminal Justice shall notify the director that an individual described by Subsection (a)(1)(B)

is to be released from custody not earlier than the 120th day before the individual's statutory release date and not later than the 90th day before the individual's statutory release date. An individual described by Subsection (a)(1)(B) may not be held past the individual's statutory release date if the individual fails or refuses to provide a DNA sample under this section. The Texas Department of Criminal Justice may take lawful administrative action, including disciplinary action resulting in the loss of good conduct time, against an individual described by Subsection (a)(1)(B) who refuses to provide a sample under this section. In this subsection, "statutory release date" means the date on which an individual is discharged from the individual's controlling sentence.

(f-1) The Texas Youth Commission shall notify the director that an individual described by Subsection (a)(2)(A) is to be released from custody not earlier than the 120th day before the individual's release date.

(f-2) The Texas Department of Criminal Justice and the Texas Youth Commission, in consultation with the director, shall determine the form of the notification described by Subsections (f) and (f-1).

(g) A medical staff employee of a criminal justice agency may collect a voluntary sample from an individual at any time.

(h) An employee of a criminal justice agency may use force against an individual required to provide a DNA sample under this section when and to the degree the employee reasonably believes the force is immediately necessary to collect the sample.

(i)(1) The Texas Department of Criminal Justice as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(1)(B) if:

(A) the individual is confined in another penal institution after sentencing and before admission to the department; and

(B) the department determines that the individual is likely to be released before being admitted to the department.

(2) The administrator of the other penal institution

shall cooperate with the Texas Department of Criminal Justice as necessary to allow the Texas Department of Criminal Justice to perform its duties under this subsection.

(j)(1) The Texas Youth Commission as soon as practicable shall cause a sample to be collected from an individual described by Subsection (a)(2)(A) if:

(A) the individual is detained in another juvenile detention facility after adjudication and before admission to the youth commission; and

(B) the youth commission determines the individual is likely to be released before being admitted to the youth commission.

(2) The administrator of the other juvenile detention facility shall cooperate with the Texas Youth Commission as necessary to allow the youth commission to perform its duties under this subsection.

(k) When a criminal justice agency of this state agrees to accept custody or supervision of an individual from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency, the criminal justice agency that agrees to accept custody or supervision of the individual shall collect a DNA sample under this subchapter if the individual was convicted of or adjudicated as having engaged in conduct constituting a felony and is otherwise required to provide a DNA sample under this section.

(l) If, in consultation with the director, it is determined that an acceptable sample has already been received from an individual, additional samples are not required unless requested by the director.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1368, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1509, Sec. 1, 2.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1368, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 211, Sec. 14, eff. Sept. 1, 2001.

Reenacted and amended by Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 11, eff. September 1, 2005.

Reenacted and amended by Acts 2005, 79th Leg., Ch. 1245 (H.B. [1681](#)), Sec. 1, eff. September 1, 2005.

Reenacted and amended by Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. [3295](#)), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1209 (S.B. [727](#)), Sec. 10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1209 (S.B. [727](#)), Sec. 11, eff. September 1, 2009.

Sec. 411.149. VOLUNTARY DNA RECORD. An individual, including an individual required to provide a DNA sample under this subchapter, may at any time voluntarily provide or cause to be provided to a criminal justice agency a sample to be forwarded to the director for the purpose of creating a DNA record under this subchapter.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 12, eff. September 1, 2005.

Sec. 411.151. EXPUNCTION OR REMOVAL OF DNA RECORDS. (a) The director shall expunge a DNA record of an individual from a DNA database if the person:

(1) notifies the director in writing that the DNA record has been ordered to be expunged under this section or Chapter 55, Code of Criminal Procedure, and provides the director with a certified copy of the court order that expunges the DNA record; or

(2) provides the director with a certified copy of a court order issued under Section [58.003](#), Family Code, that seals the juvenile record of the adjudication that resulted in the DNA record.

(b) A person may petition for the expunction of a DNA record under the procedures established under Article [55.02](#), Code of Criminal Procedure, if the person is entitled to the expunction of

records relating to the offense to which the DNA record is related under Article [55.01](#), Code of Criminal Procedure.

(c) This section does not require the director to expunge a record or destroy a sample if the director determines that the individual is otherwise required to submit a DNA sample under this subchapter.

(d) The director by rule may permit administrative removal of a record, sample, or other information erroneously included in a database.

(e) The department's failure to expunge a DNA record as required by this section may not serve as the sole grounds for a court in a criminal proceeding to exclude evidence based on or derived from the contents of that record.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 283, Sec. 44, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 13, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1105 (S.B. [1636](#)), Sec. 1, eff. September 1, 2011.

Sec. 411.152. RULES. (a) The director may adopt rules permitted by this subchapter that are necessary to administer or enforce this subchapter but shall adopt a rule expressly required by this subchapter.

(b) The director by rule may release or permit access to information to confirm or deny whether an individual has a preexisting record under this subchapter. After receiving a request regarding an individual whose DNA record has been expunged or removed under Section 411.151, the director shall deny the preexisting record.

(c) The director by rule may exempt:

(1) a laboratory conducting non-human forensic DNA analysis from a rule adopted under this subchapter; and

(2) certain categories of individuals from a requirement to provide an additional sample after an acceptable DNA

record exists for the individual.

(d) The director by rule may determine whether a DNA sample complies with a collection provision of this subchapter.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 14, eff. September 1, 2005.

Sec. 411.153. CONFIDENTIALITY OF DNA RECORDS. (a) A DNA record stored in the DNA database is confidential and is not subject to disclosure under the public information law, Chapter 552.

(b) A person commits an offense if the person knowingly discloses to an unauthorized recipient information in a DNA record or information related to a DNA analysis of a sample collected under this subchapter.

(c) An offense under this section is a state jail felony.

(d) A violation under this section constitutes official misconduct.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 3, eff. Sept. 1, 2001.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1490, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1509, Sec. 3.

Reenacted and amended by Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 15, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 760 (H.B. [3295](#)), Sec. 4, eff. June 15, 2007.

Sec. 411.154. ENFORCEMENT BY COURT ORDER. (a) On the request of the director, a district or county attorney or the attorney general may petition a district court for an order requiring a person to:

(1) comply with this subchapter or a rule adopted under this subchapter; or

(2) refrain from acting in violation of this

subchapter or a rule adopted under this subchapter.

(b) The court may issue an order requiring a person:

(1) to act in compliance with this subchapter or a rule adopted under this subchapter;

(2) to refrain from acting in violation of this subchapter or a rule adopted under this subchapter;

(3) to provide a DNA sample; or

(4) if the person has already provided a DNA sample, to provide another sample if good cause is shown.

(c) An order issued under this section is appealable as a criminal matter and if appealed is to be reviewed under an abuse of discretion standard.

Added by Acts 1995, 74th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 16, eff. September 1, 2005.

SUBCHAPTER H. LICENSE TO CARRY A CONCEALED HANDGUN

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [910](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.171. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(1), eff. June 14, 2013.

(2) "Chemically dependent person" means a person who frequently or repeatedly becomes intoxicated by excessive indulgence in alcohol or uses controlled substances or dangerous drugs so as to acquire a fixed habit and an involuntary tendency to become intoxicated or use those substances as often as the opportunity is presented.

(3) "Concealed handgun" means a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

(4) "Convicted" means an adjudication of guilt or, except as provided in Section 411.1711, an order of deferred

adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently:

(A) expunged;

(B) pardoned under the authority of a state or federal official; or

(C) otherwise vacated, set aside, annulled, invalidated, voided, or sealed under any state or federal law.

(4-a) "Federal judge" means:

(A) a judge of a United States court of appeals;

(B) a judge of a United States district court;

(C) a judge of a United States bankruptcy court;

or

(D) a magistrate judge of a United States district court.

(4-b) "State judge" means:

(A) the judge of an appellate court, a district court, or a county court at law of this state;

(B) an associate judge appointed under Chapter 201, Family Code; or

(C) a justice of the peace.

(5) "Handgun" has the meaning assigned by Section [46.01](#), Penal Code.

(6) "Intoxicated" has the meaning assigned by Section [49.01](#), Penal Code.

(7) "Qualified handgun instructor" means a person who is certified to instruct in the use of handguns by the department.

(8) Repealed by Acts 1999, 76th Leg., ch. 62, Sec. [9.02\(a\)](#), eff. Sept. 1, 1999.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.01(a), 9.02(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1084 (H.B. [1831](#)), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.06, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.02, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1259 (H.B. 559), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 14(1), eff. June 14, 2013.

Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A person is not convicted, as that term is defined by Section 411.171, if an order of deferred adjudication was entered against the person on a date not less than 10 years preceding the date of the person's application for a license under this subchapter unless the order of deferred adjudication was entered against the person for:

- (1) a felony offense under:
 - (A) Title 5, Penal Code;
 - (B) Chapter 29, Penal Code;
 - (C) Section 25.07 or 25.072, Penal Code; or
 - (D) Section 30.02, Penal Code, if the offense is punishable under Subsection (c)(2) or (d) of that section; or
- (2) an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense listed in Subdivision (1).

Added by Acts 2005, 79th Leg., Ch. 1084 (H.B. 1831), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 7, eff. September 1, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this

section.

Sec. 411.172. ELIGIBILITY. (a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, or equivalent offense;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;

(12) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;

(13) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(14) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174.

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) except as provided by Subsection (b-1), a felony if the offense, at the time the offense is committed:

(A) is designated by a law of this state as a felony;

(B) contains all the elements of an offense designated by a law of this state as a felony; or

(C) is punishable by confinement for one year or more in a penitentiary; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(b-1) An offense is not considered a felony for purposes of Subsection (b) if, at the time of a person's application for a license to carry a concealed handgun, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

(c) An individual who has been convicted two times within the 10-year period preceding the date on which the person applies for a license of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a license under this subchapter. This subsection does not preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to show that the person is a chemically dependent person.

(d) For purposes of Subsection (a)(7), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

(1) has been diagnosed by a licensed physician as

suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person's own affairs; or

(4) has entered in a criminal proceeding a plea of not guilty by reason of insanity.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

(1) involuntary psychiatric hospitalization;

(2) psychiatric hospitalization;

(3) inpatient or residential substance abuse treatment in the preceding five-year period;

(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(A) schizophrenia or delusional disorder;

(B) bipolar disorder;

(C) chronic dementia, whether caused by illness, brain defect, or brain injury;

(D) dissociative identity disorder;

(E) intermittent explosive disorder; or

(F) antisocial personality disorder.

(f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection (e) is not because of that disorder or condition incapable of

exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

(g) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a concealed handgun if the person:

(1) is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard;

(2) was discharged under honorable conditions, if discharged from the United States armed forces, reserves, or national guard; and

(3) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a handgun.

(h) The issuance of a license to carry a concealed handgun to a person eligible under Subsection (g) does not affect the person's ability to purchase a handgun or ammunition under federal law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.03(a), 9.04(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 486 (H.B. [322](#)), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 11.03, eff. September 1, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [910](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.173. NONRESIDENT LICENSE.

(a) The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant. A license issued in accordance with the procedure established under this subsection:

(1) remains in effect until the license expires under Section 411.183; and

(2) may be renewed under Section 411.185.

(a-1) Repealed by Acts 2005, 79th Leg., Ch. 915, Sec. 4, eff. September 1, 2005.

(b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a license issued by the other state is recognized in this state if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued. For purposes of this subsection, "background check" means a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation.

(c) The attorney general of the State of Texas shall annually:

(1) submit a report to the governor, lieutenant governor, and speaker of the house of representatives listing the states the attorney general has determined qualify for recognition under Subsection (b); and

(2) review the statutes of states that the attorney general has determined do not qualify for recognition under

Subsection (b) to determine the changes to their statutes that are necessary to qualify for recognition under that subsection.

(d) The attorney general of the State of Texas shall submit the report required by Subsection (c)(1) not later than January 1 of each calendar year.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.05(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 752, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 4, eff. September 1, 2005.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.174. APPLICATION. (a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 411.176:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b);

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of

an applicant for a license under this subchapter;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) evidence of handgun proficiency, in the form and manner required by the department;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section [411.172](#); and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section [411.172\(a\)](#).

(b) An applicant must provide on the application a statement of the applicant's:

(1) full name and place and date of birth;

(2) race and sex;

(3) residence and business addresses for the preceding five years;

(4) hair and eye color;

(5) height and weight;

(6) driver's license number or identification certificate number issued by the department;

(7) criminal history record information of the type maintained by the department under this chapter, including a list of offenses for which the applicant was arrested, charged, or under an information or indictment and the disposition of the offenses; and

(8) history, if any, of treatment received by, commitment to, or residence in:

(A) a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state, but only if the treatment, commitment, or residence

occurred during the preceding five years; or

(B) a psychiatric hospital.

(b-1) The application must provide space for the applicant to:

(1) list any military service that may qualify the applicant to receive a license with a veteran's designation under Section 411.179(e); and

(2) include proof required by the department to determine the applicant's eligibility to receive that designation.

(c) The department shall distribute on request a copy of this subchapter and application materials.

(d) The department may not request or require an applicant to provide the applicant's social security number as part of an application under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.06(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 486 (H.B. 322), Sec. 2, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.04, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 396 (S.B. 164), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 665 (H.B. 1349), Sec. 2, eff. January 1, 2014.

Sec. 411.175. PROCEDURES FOR SUBMITTING FINGERPRINTS. The department shall establish procedures for the submission of legible and classifiable fingerprints by an applicant for a license under this subchapter who:

(1) is required to submit those fingerprints to the department, including an applicant under Section 411.199, 411.1991, or 411.201; and

(2) resides in a county having a population of 46,000 or less and does not reside within a 25-mile radius of a facility with the capability to process digital or electronic fingerprints.

Added by Acts 2013, 83rd Leg., R.S., Ch. 874 (H.B. [698](#)), Sec. 1, eff. September 1, 2013.

Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On receipt of application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation described by Subsection (b). For purposes of this section, the director's designee may be a noncommissioned employee of the department.

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The director's designee may access any records necessary for purposes of this subsection. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than the 60th day after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters.

(c) The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section [411.172](#). The director's designee may also submit the application

and the recommendation that the license be issued.

(d) On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary if a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than the 180th day after the date the department receives the application materials from the applicant.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.07(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.05, eff. September 1, 2009.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.177. ISSUANCE OR DENIAL OF LICENSE. (a) The department shall issue a license to carry a concealed handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b) The department shall, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials:

(1) issue the license;

(2) notify the applicant in writing that the application was denied:

(A) on the grounds that the applicant failed to

qualify under the criteria listed in Section [411.172](#);

(B) based on the affidavit of the director's designee submitted to the department under Section 411.176(c); or

(C) based on the affidavit of the qualified handgun instructor submitted to the department under Section 411.188(k); or

(3) notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the amount of time the department will need to make the determination.

(c) Failure of the department to issue or deny a license for a period of more than 30 days after the department is required to act under Subsection (b) constitutes denial.

(d) A license issued under this subchapter is effective from the date of issuance.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.08(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 11.06, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. [3142](#)), Sec. 5, eff. June 14, 2013.

Sec. 411.178. NOTICE TO LOCAL LAW ENFORCEMENT. On request of a local law enforcement agency, the department shall notify the agency of the licenses that have been issued to license holders who reside in the county in which the agency is located.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 14, eff. Sept. 1, 1999.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1296](#), 84th Legislature, Regular Session, for amendments affecting this

section.

Sec. 411.179. FORM OF LICENSE.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch.

1302 (H.B. 3142), Sec. 6

(a) The department by rule shall adopt the form of the license. A license must include:

(1) a number assigned to the license holder by the department;

(2) a statement of the period for which the license is effective;

(3) a color photograph of the license holder;

(4) the license holder's full name, date of birth, hair and eye color, height, weight, and signature;

(5) the license holder's residence address or, as provided by Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or the license holder serves as a state judge; and

(6) the number of a driver's license or an identification certificate issued to the license holder by the department.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 396

(S.B. 164), Sec. 2

(a) The department by rule shall adopt the form of the license. A license must include:

(1) a number assigned to the license holder by the department;

(2) a statement of the period for which the license is effective;

(3) a statement of the category or categories of handguns the license holder may carry as provided by Subsection (b);

(4) a color photograph of the license holder;

(5) the license holder's full name, date of birth, hair

and eye color, height, weight, and signature;

(6) the license holder's residence address or, as provided by Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or the license holder serves as a state judge;

(7) the number of a driver's license or an identification certificate issued to the license holder by the department; and

(8) the designation "VETERAN" if required under Subsection (e).

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(2), eff. June 14, 2013.

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of a judge, justice, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4) or (6), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as a judge, justice, district attorney, criminal district attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

(d) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a federal judge, a state judge, or the spouse of a federal judge or state judge to omit the license holder's residence address and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, a state judge, or the spouse of a federal judge or state judge.

(e) In this subsection, "veteran" has the meaning assigned by Section 411.1951. The department shall include the designation "VETERAN" on the face of any original, duplicate, modified, or renewed license under this subchapter or on the reverse side of the

license, as determined by the department, if the license is issued to a veteran who:

(1) requests the designation; and

(2) provides proof sufficient to the department of the veteran's military service and honorable discharge.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 9, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. 2300), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(25), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(6), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.07, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 396 (S.B. 164), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 6, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 14(2), eff. June 14, 2013.

Sec. 411.180. NOTIFICATION OF DENIAL, REVOCATION, OR SUSPENSION OF LICENSE; REVIEW. (a) The department shall give written notice to each applicant for a handgun license of any denial, revocation, or suspension of that license. Not later than the 30th day after the notice is received by the applicant, according to the records of the department, the applicant or license holder may request a hearing on the denial, revocation, or suspension. The applicant must make a written request for a hearing addressed to the department at its Austin address. The request for hearing must reach the department in Austin prior to the 30th day

after the date of receipt of the written notice. On receipt of a request for hearing from a license holder or applicant, the department shall promptly schedule a hearing in the appropriate justice court in the county of residence of the applicant or license holder. The justice court shall conduct a hearing to review the denial, revocation, or suspension of the license. In a proceeding under this section, a justice of the peace shall act as an administrative hearing officer. A hearing under this section is not subject to Chapter 2001 (Administrative Procedure Act). A district attorney or county attorney, the attorney general, or a designated member of the department may represent the department.

(b) The department, on receipt of a request for hearing, shall file the appropriate petition in the justice court selected for the hearing and send a copy of that petition to the applicant or license holder at the address contained in departmental records. A hearing under this section must be scheduled within 30 days of receipt of the request for a hearing. The hearing shall be held expeditiously but in no event more than 60 days after the date that the applicant or license holder requested the hearing. The date of the hearing may be reset on the motion of either party, by agreement of the parties, or by the court as necessary to accommodate the court's docket.

(c) The justice court shall determine if the denial, revocation, or suspension is supported by a preponderance of the evidence. Both the applicant or license holder and the department may present evidence. The court shall affirm the denial, revocation, or suspension if the court determines that denial, revocation, or suspension is supported by a preponderance of the evidence. If the court determines that the denial, revocation, or suspension is not supported by a preponderance of the evidence, the court shall order the department to immediately issue or return the license to the applicant or license holder.

(d) A proceeding under this section is subject to Chapter 105, Civil Practice and Remedies Code, relating to fees, expenses, and attorney's fees.

(e) A party adversely affected by the court's ruling following a hearing under this section may appeal the ruling by

filing within 30 days after the ruling a petition in a county court at law in the county in which the applicant or license holder resides or, if there is no county court at law in the county, in the county court of the county. A person who appeals under this section must send by certified mail a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the appropriate division of the department at its Austin headquarters. The trial on appeal shall be a trial de novo without a jury. A district or county attorney or the attorney general may represent the department.

(f) A suspension of a license may not be probated.

(g) If an applicant or a license holder does not petition the justice court, a denial becomes final and a revocation or suspension takes effect on the 30th day after receipt of written notice.

(h) The department may use and introduce into evidence certified copies of governmental records to establish the existence of certain events that could result in the denial, revocation, or suspension of a license under this subchapter, including records regarding convictions, judicial findings regarding mental competency, judicial findings regarding chemical dependency, or other matters that may be established by governmental records that have been properly authenticated.

(i) This section does not apply to a suspension of a license under Section 85.022, Family Code, or Article 17.292, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1412, Sec. 5, eff. Sept. 1, 1999.

Sec. 411.181. NOTICE OF CHANGE OF ADDRESS OR NAME.

(a) If a person who is a current license holder moves from any residence address stated on the license, if the name of the person is changed by marriage or otherwise, or if the person's status becomes inapplicable for purposes of the information required to be displayed on the license under Section 411.179, the person shall, not later than the 30th day after the date of the

address, name, or status change, notify the department and provide the department with the number of the person's license and, as applicable, the person's:

- (1) former and new addresses;
- (2) former and new names; or
- (3) former and new status.

(b) If the name of the license holder is changed by marriage or otherwise, or if the person's status becomes inapplicable as described by Subsection (a), the person shall apply for a duplicate license. The duplicate license must reflect the person's current name, residence address, and status.

(c) If a license holder moves from the address stated on the license, the person shall apply for a duplicate license.

(d) The department shall charge a license holder a fee of \$25 for a duplicate license.

(e) The department shall make the forms available on request.

(f) On request of a local law enforcement agency, the department shall notify the agency of changes made under Subsection (a) by license holders who reside in the county in which the agency is located.

(g) If a license is lost, stolen, or destroyed, the license holder shall apply for a duplicate license not later than the 30th day after the date of the loss, theft, or destruction of the license.

(h) If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss, theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. The applicant must pay only the nonrefundable renewal fee.

(i) A license holder whose application fee for a duplicate license under this section is dishonored or reversed may reapply for a duplicate license at any time, provided the application fee and a dishonored payment charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 15, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1065 (H.B. 1483), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 10, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. 2300), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.08, eff. September 1, 2009.

Sec. 411.182. NOTICE. (a) For the purpose of a notice required by this subchapter, the department may assume that the address currently reported to the department by the applicant or license holder is the correct address.

(b) A written notice meets the requirements under this subchapter if the notice is sent by certified mail to the current address reported by the applicant or license holder to the department.

(c) If a notice is returned to the department because the notice is not deliverable, the department may give notice by publication once in a newspaper of general interest in the county of the applicant's or license holder's last reported address. On the 31st day after the date the notice is published, the department may take the action proposed in the notice.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.183. EXPIRATION. (a) A license issued under this subchapter expires on the first birthday of the license holder occurring after the fourth anniversary of the date of issuance.

(b) A renewed license expires on the license holder's birthdate, five years after the date of the expiration of the

previous license.

(c) A duplicate license expires on the date the license that was duplicated would have expired.

(d) A modified license expires on the date the license that was modified would have expired.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 915 (H.B. 225), Sec. 3, eff. September 1, 2005.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 1296 and H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.185. LICENSE RENEWAL PROCEDURE.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 156, Sec. 1

(a) To renew a license, a license holder must:

(1) complete a handgun proficiency course under Section 411.188(a) within the six-month period preceding:

(A) the date of application for renewal, for a first or second renewal; and

(B) the date of application for renewal or the date of application for the preceding renewal, for a third or subsequent renewal, to ensure that the license holder is not required to complete the course more than once in any 10-year period; and

(2) submit to the department:

(A) an application for renewal on a form provided by the department;

(B) evidence of handgun proficiency, in the form and manner required by the department;

(C) payment of a nonrefundable renewal fee as set by the department; and

(D) one or more photographs of the applicant that meet the requirements of the department.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch.

1387, Sec. 1

(a) To renew a license, a license holder must, on or before the date the license expires, submit to the department by mail or, in accordance with the procedure adopted under Subsection (f), on the Internet:

(1) a renewal application on a form provided by the department;

(2) payment of a nonrefundable renewal fee as set by the department; and

(3) the informational form described by Subsection (c) signed or electronically acknowledged by the applicant.

(b) The director by rule shall adopt a renewal application form requiring an update of the information on the original completed application. The director by rule shall set the renewal fee in an amount that is sufficient to cover the actual cost to the department to:

(1) verify the information contained in the renewal application form;

(2) conduct any necessary investigation concerning the license holder's continued eligibility to hold a license; and

(3) issue the renewed license.

(c) The director by rule shall adopt an informational form that describes state law regarding the use of deadly force and the places where it is unlawful for the holder of a license issued under this subchapter to carry a concealed handgun. An applicant for a renewed license must sign and return the informational form to the department by mail or acknowledge the form electronically on the Internet according to the procedure adopted under Subsection (f).

(d) Not later than the 60th day before the expiration date of the license, the department shall mail to each license holder a written notice of the expiration of the license, a renewal application form, and the informational form described by

Subsection (c).

Text of subsection as added by Acts 2013, 83rd Leg., R.S., Ch. 665,
Sec. 3

(e) The department may not request or require a license holder to provide the license holder's social security number to renew a license under this section.

Text of subsection as added by Acts 2013, 83rd Leg., R.S., Ch. 1387,
Sec. 1

(e) The department shall renew the license of a license holder who meets all the eligibility requirements to continue to hold a license and submits all the renewal materials described by Subsection (a). Not later than the 45th day after receipt of the renewal materials, the department shall issue the renewed license or notify the license holder in writing that the department denied the license holder's renewal application.

(f) The director by rule shall adopt a procedure by which a license holder who satisfies the eligibility requirements to continue to hold a license may submit the renewal materials described by Subsection (a) by mail or on the Internet.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 694 (H.B. [1839](#)), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 11.10, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 156 (S.B. [864](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 665 (H.B. [1349](#)), Sec. 3, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. [48](#)), Sec. 1, eff. September 1, 2013.

Sec. 411.186. REVOCATION. (a) The department shall revoke a license under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) made a material misrepresentation or failed to disclose a material fact in an application submitted under this subchapter;

(3) subsequently becomes ineligible for a license under Section 411.172, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(4) is convicted of an offense under Section 46.035, Penal Code;

(5) is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason; or

(6) submits an application fee that is dishonored or reversed if the applicant fails to submit a cashier's check or money order made payable to the "Department of Public Safety of the State of Texas" in the amount of the dishonored or reversed fee, plus \$25, within 30 days of being notified by the department that the fee was dishonored or reversed.

(b) If a peace officer believes a reason listed in Subsection (a) to revoke a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the revocation of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license

was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of revocation from the department, unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the revocation as provided by Section 411.180. If a request is made for the justice court to review the revocation and hold a hearing, the license holder shall surrender the license on the date an order of revocation is entered by the justice court.

(c) A license holder whose license is revoked for a reason listed in Subsections (a)(1)-(5) may reapply as a new applicant for the issuance of a license under this subchapter after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause for revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for revocation no longer exists and has not existed for a period of two years.

(d) A license holder whose license is revoked under Subsection (a)(6) may reapply for an original or renewed license at any time, provided the application fee and a dishonored payment charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.09(a), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1065 (H.B. 1483), Sec. 2, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.11, eff. September 1, 2009.

Sec. 411.187. SUSPENSION OF LICENSE. (a) The department shall suspend a license under this section if the license holder:

(1) is charged with the commission of a Class A or

Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(2) fails to notify the department of a change of address, name, or status as required by Section 411.181;

(3) commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or

(4) is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.

(b) If a peace officer believes a reason listed in Subsection (a) to suspend a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the suspension of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and the attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of suspension from the department unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the suspension as provided by Section 411.180. If a request is made for the justice court to review the suspension and hold a hearing, the license holder shall surrender the license on the date an order of suspension is entered by the justice court.

(c) The department shall suspend a license under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), (3), or (4), except as provided by Subdivision (2);

(2) for not less than one year and not more than three years, if the person's license:

(A) is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1); and

(B) has been previously suspended for the same reason;

(3) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(4) for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(5); or

(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(6).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.10(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1412, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.12, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12A.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 7, eff. June 14, 2013.

Sec. 411.1871. NOTICE OF SUSPENSION OR REVOCATION OF CERTAIN LICENSES. The department shall notify the Texas

Commission on Law Enforcement Officer Standards and Education if the department takes any action against the license of a person identified by the commission as a person certified under Section [1701.260](#), Occupations Code, including suspension or revocation. Added by Acts 2013, 83rd Leg., R.S., Ch. 655 (H.B. [1009](#)), Sec. 4, eff. June 14, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1296](#) and H.B. [910](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.188. HANDGUN PROFICIENCY REQUIREMENT. (a) The director by rule shall establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency is required for each person who seeks to obtain or renew a license and must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun. An applicant must be able to demonstrate, at a minimum, the degree of proficiency that is required to effectively operate a handgun of .32 caliber or above. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.

(b) Only qualified handgun instructors may administer the classroom instruction part or the range instruction part of the handgun proficiency course. The classroom instruction part of the course must include not less than four hours and not more than six hours of instruction on:

- (1) the laws that relate to weapons and to the use of deadly force;
- (2) handgun use and safety;
- (3) nonviolent dispute resolution; and
- (4) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of

accidental injury to a child.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 156 (S.B. 864), Sec. 3, and Ch. 1387 (H.B. 48), Sec. 5, eff. September 1, 2013.

(d) Only a qualified handgun instructor may administer the proficiency examination to obtain a license. The proficiency examination must include:

(1) a written section on the subjects listed in Subsection (b); and

(2) a physical demonstration of proficiency in the use of one or more handguns and in handgun safety procedures.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(4), eff. June 14, 2013.

(f) The department shall develop and distribute directions and materials for course instruction, test administration, and recordkeeping. All test results shall be sent to the department, and the department shall maintain a record of the results.

(g) A person who wishes to obtain a license to carry a concealed handgun must apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency and demonstrate handgun proficiency as required by the department.

(h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(4), eff. June 14, 2013.

(i) A certified firearms instructor of the department may monitor any class or training presented by a qualified handgun instructor. A qualified handgun instructor shall cooperate with the department in the department's efforts to monitor the presentation of training by the qualified handgun instructor. A qualified handgun instructor shall make available for inspection to the department any and all records maintained by a qualified handgun instructor under this subchapter. The qualified handgun instructor shall keep a record of all information required by department rule.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 5, eff. September 1, 2013.

(j) For license holders seeking to renew their licenses, the department may offer online, or allow a qualified handgun instructor to offer online, the classroom instruction part of the handgun proficiency course and the written section of the proficiency examination.

(k) A qualified handgun instructor may submit to the department a written recommendation for disapproval of the application for a license or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant does not possess the required handgun proficiency. The department may use a written recommendation submitted under this subsection as the basis for denial of a license only if the department determines that the recommendation is made in good faith and is supported by a preponderance of the evidence. The department shall make a determination under this subsection not later than the 45th day after the date the department receives the written recommendation. The 60-day period in which the department must take action under Section 411.177(b) is extended one day for each day a determination is pending under this subsection.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a) eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.11(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 5.10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 11.13, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 156 (S.B. [864](#)), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 156 (S.B. [864](#)), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. [3142](#)), Sec. 8, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. [3142](#)), Sec. 14(4),

eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 5, eff. September 1, 2013.

Sec. 411.1881. EXEMPTION FROM INSTRUCTION FOR CERTAIN PERSONS. (a) Notwithstanding any other provision of this subchapter, a person may not be required to complete the range instruction portion of a handgun proficiency course to obtain a license issued under this subchapter if the person:

(1) is currently serving in or is honorably discharged from:

(A) the army, navy, air force, coast guard, or marine corps of the United States or an auxiliary service or reserve unit of one of those branches of the armed forces; or

(B) the Texas military forces, as defined by Section 437.001; and

(2) has, within the five years preceding the date of the person's application for the license, completed a course of training in handgun proficiency or familiarization as part of the person's service with the armed forces or Texas military forces.

(b) The director by rule shall adopt a procedure by which a license holder who is exempt under Subsection (a) from the range instruction portion of the handgun proficiency requirement may submit a form demonstrating the license holder's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the license holder qualifies for the exemption.

Added by Acts 2005, 79th Leg., Ch. 132 (H.B. 685), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.04, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 3, eff. September 1, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 1376, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1882. EVIDENCE OF HANDGUN PROFICIENCY FOR CERTAIN PERSONS.

(a) A person who is serving in this state as a judge or justice of a federal court, as an active judicial officer, as defined by Section 411.201, or as a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Texas Commission on Law Enforcement for purposes of Section 1702.1675, Occupations Code, a sworn statement that indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns.

(b) The director by rule shall adopt a procedure by which a person described under Subsection (a) may submit a form demonstrating the person's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the person qualifies for the exemption.

(c) A license issued under this section automatically expires on the six-month anniversary of the date the person's status under Subsection (a) becomes inapplicable. A license that expires under this subsection may be renewed under Section 411.185. Added by Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. 2300), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.14, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.24, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 9, eff. June 14, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.190. QUALIFIED HANDGUN INSTRUCTORS. (a) The director may certify as a qualified handgun instructor a person who:

(1) is certified by the Texas Commission on Law Enforcement or under Chapter 1702, Occupations Code, to instruct others in the use of handguns;

(2) regularly instructs others in the use of handguns and has graduated from a handgun instructor school that uses a nationally accepted course designed to train persons as handgun instructors; or

(3) is certified by the National Rifle Association of America as a handgun instructor.

(b) In addition to the qualifications described by Subsection (a), a qualified handgun instructor must be qualified to instruct persons in:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child.

(c) In the manner applicable to a person who applies for a license to carry a concealed handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor training to the applicant. The applicant shall pay a fee of \$100 to

the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall issue a license to carry a concealed handgun under the authority of this subchapter to any person who is certified as a qualified handgun instructor and who pays to the department a fee of \$100 in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(d) The certification of a qualified handgun instructor expires on the second anniversary after the date of certification. To renew a certification, the qualified handgun instructor must pay a fee of \$100 and take and successfully complete the retraining courses required by department rule.

(d-1) The department shall ensure that an applicant may renew certification under Subsection (d) from any county in this state by using an online format to complete the required retraining courses if:

(1) the applicant is renewing certification for the first time; or

(2) the applicant completed the required retraining courses in person the previous time the applicant renewed certification.

(e) After certification, a qualified handgun instructor may conduct training for applicants for a license under this subchapter.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a concealed handgun with respect to a person who is a qualified handgun instructor or an applicant for certification as a qualified handgun instructor, the department shall take that action against the person's:

(1) license to carry a concealed handgun if the person is an applicant for or the holder of a license issued under this subchapter; and

(2) certification as a qualified handgun instructor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1,

1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.13(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 199, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.758, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 5.11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.15, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.007, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.25, eff. May 18, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1901. SCHOOL SAFETY CERTIFICATION FOR QUALIFIED HANDGUN INSTRUCTORS. (a) The department shall establish a process to enable qualified handgun instructors certified under Section 411.190 to obtain an additional certification in school safety. The process must include a school safety certification course that provides training in the following:

- (1) the protection of students;
- (2) interaction of license holders with first responders;
- (3) tactics for denying an intruder entry into a classroom or school facility; and
- (4) methods for increasing a license holder's accuracy with a handgun while under duress.

(b) The school safety certification course under Subsection (a) must include not less than 15 hours and not more than 20 hours of instruction.

(c) A qualified handgun instructor certified in school safety under this section may provide school safety training, including instruction in the subjects listed under Subsection (a),

to employees of a school district or an open-enrollment charter school who hold a license to carry a concealed handgun issued under this subchapter.

(d) The department shall establish a fee in an amount that is sufficient to cover the costs of the school safety certification under this section.

(e) The department may adopt rules to administer this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 498 (S.B. 1857), Sec. 1, eff. September 1, 2013.

Sec. 411.191. REVIEW OF DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION AS QUALIFIED HANDGUN INSTRUCTOR. The procedures for the review of a denial, revocation, or suspension of a license under Section 411.180 apply to the review of a denial, revocation, or suspension of certification as a qualified handgun instructor. The notice provisions of this subchapter relating to denial, revocation, or suspension of handgun licenses apply to the proposed denial, revocation, or suspension of a certification of a qualified handgun instructor or an applicant for certification as a qualified handgun instructor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.192. CONFIDENTIALITY OF RECORDS. (a) The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on

request and the payment of a reasonable fee.

(c) The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the agency making the request.

(d) The department shall make public and distribute to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department and who request to be included as provided by Subsection (e). The department shall include on the lists each individual's name, telephone number, e-mail address, and Internet website address. The department shall make the list available on the department's Internet website.

(e) An individual who is certified as a qualified handgun instructor may request in writing that the department disclose all or part of the information described by Subsection (d) regarding the individual. The department shall include all or part of the individual's information on the list as requested.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 172 (H.B. 991), Sec. 1, eff. May 23, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.03, eff. September 1, 2009.

Sec. 411.193. STATISTICAL REPORT. The department shall make available, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender, race, and zip code of the applicant or license holder.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.194. REDUCTION OF FEES DUE TO INDIGENCY. (a) Notwithstanding any other provision of this subchapter, the department shall reduce by 50 percent any fee required for the

issuance of an original, duplicate, modified, or renewed license under this subchapter if the department determines that the applicant is indigent.

(b) The department shall require an applicant requesting a reduction of a fee to submit proof of indigency with the application materials.

(c) For purposes of this section, an applicant is indigent if the applicant's income is not more than 100 percent of the applicable income level established by the federal poverty guidelines.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.195. REDUCTION OF FEES FOR SENIOR CITIZENS. Notwithstanding any other provision of this subchapter, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, modified, or renewed license under this subchapter if the applicant for the license is 60 years of age or older.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 289 (H.B. 1038), Sec. 1, eff. September 1, 2005.

Sec. 411.1951. WAIVER OR REDUCTION OF FEES FOR MEMBERS OR VETERANS OF UNITED STATES ARMED FORCES. (a) In this section, "veteran" means a person who:

(1) has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the Texas military forces as defined by Section 437.001; or

(C) an auxiliary service of one of those branches of the armed forces; and

(2) has been honorably discharged from the branch of the service in which the person served.

(b) Notwithstanding any other provision of this subchapter, the department shall waive any fee required for the issuance of an original, duplicate, modified, or renewed license under this subchapter if the applicant for the license is:

(1) a member of the United States armed forces, including a member of the reserves, national guard, or state guard; or

(2) a veteran who, within 365 days preceding the date of the application, was honorably discharged from the branch of service in which the person served.

(c) Notwithstanding any other provision of this subchapter, if the applicant is a veteran who, more than 365 days preceding the date of the application, was honorably discharged from the branch of the service in which the applicant served:

(1) the applicant must pay a fee of \$25 for the issuance of an original or renewed license under this subchapter; and

(2) the department shall reduce by 50 percent any fee required of the applicant for a duplicate or modified license under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 486 (H.B. [322](#)), Sec. 4, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 200 (H.B. [233](#)), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 251 (H.B. [485](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 3.05, eff. September 1, 2013.

Sec. 411.1952. REDUCTION OF FEES FOR EMPLOYEES OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE. Notwithstanding any other provision of this subchapter, an applicant who is a correctional officer of the Texas Department of Criminal Justice shall pay a fee of \$25 for the issuance of an original or renewed license under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 251 (H.B. [485](#)), Sec. 2,

eff. September 1, 2013.

Sec. 411.196. METHOD OF PAYMENT. A person may pay a fee required by this subchapter by cash, credit card, personal check, cashier's check, or money order. A person who pays a fee required by this subchapter by cash must pay the fee in person. Checks or money orders must be made payable to the "Texas Department of Public Safety." A person whose payment for a fee required by this subchapter is dishonored or reversed must pay any future fees required by this subchapter by cashier's check or money order made payable to the "Texas Department of Public Safety." A fee received by the department under this subchapter is nonrefundable.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1065 (H.B. [1483](#)), Sec. 1, eff. September 1, 2005.

Sec. 411.197. RULES. The director shall adopt rules to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [910](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.198. LAW ENFORCEMENT OFFICER ALIAS HANDGUN LICENSE. (a) On written approval of the director, the department may issue to a law enforcement officer an alias license to carry a concealed handgun to be used in supervised activities involving criminal investigations.

(b) It is a defense to prosecution under Section [46.035](#), Penal Code, that the actor, at the time of the commission of the offense, was the holder of an alias license issued under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1,

1997.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [1296](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.199. HONORABLY RETIRED PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 1701, Occupations Code, and who has been employed full-time as a peace officer by a law enforcement agency may apply for a license under this subchapter at any time after retirement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency employing the applicant. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant before retirement;
- (3) whether or not the applicant was accused of misconduct at the time of the retirement;
- (4) the physical and mental condition of the applicant;
- (5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;
- (6) whether the applicant would be eligible for reemployment with the agency, and if not, the reasons the applicant is not eligible; and
- (7) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant is honorably retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

- (1) did not retire in lieu of any disciplinary action;
- (2) was eligible to retire from the law enforcement

agency or was ineligible to retire only as a result of an injury received in the course of the applicant's employment with the agency; and

(3) is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the applicant does not offer a pension or annuity to its employees.

(d) An applicant under this section must pay a fee of \$25 for a license issued under this subchapter.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 5, eff. September 1, 2013.

(e) A retired peace officer who obtains a license under this subchapter must maintain the proficiency required for a peace officer under Section 1701.355, Occupations Code. The department or a local law enforcement agency shall allow a retired peace officer of the department or agency an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 411.183.

(g) A retired officer of the United States who was eligible to carry a firearm in the discharge of the officer's official duties is eligible for a license under this section. An applicant described by this subsection may submit the application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

(1) retirement credentials; and

(2) a letter from the agency head stating the applicant retired in good standing.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 25, Sec. 1, eff. May 3, 1999; Acts 1999, 76th Leg., ch. 62, Sec. 9.14, eff. Sept. 1, 1999;

Acts 2001, 77th Leg., ch. 196, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.16, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 10, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. 48), Sec. 5, eff. September 1, 2013.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 2604, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.1991. PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 1701, Occupations Code, and is employed as a peace officer by a law enforcement agency, or a member of the Texas military forces, excluding Texas State Guard members who are serving in the Texas Legislature may apply for a license under this subchapter. The person shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement of the head of the law enforcement agency employing the applicant. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) whether the applicant has been accused of misconduct at any time during the applicant's period of employment with the agency and the disposition of that accusation;
- (3) a description of the physical and mental condition of the applicant;
- (4) a list of the types of weapons the applicant has demonstrated proficiency with during the preceding year; and
- (5) a recommendation from the agency head that a license be issued to the person under this subchapter.

(b) The department may issue a license under this subchapter

to an applicant under this section if the statement from the head of the law enforcement agency employing the applicant complies with Subsection (a) and indicates that the applicant is qualified and physically and mentally fit to carry a handgun.

(c) An applicant under this section shall pay a fee of \$25 for a license issued under this subchapter.

(d) A license issued under this section expires as provided by Section [411.183](#).

Added by Acts 1999, 76th Leg., ch. 62, Sec. 9.15(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 11.17, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 251 (H.B. [485](#)), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 251 (H.B. [485](#)), Sec. 4, eff. September 1, 2013.

Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS.

(a) A person who served as a reserve law enforcement officer, as defined by Section [1701.001](#), Occupations Code, not less than a total of 15 years with one or more state or local law enforcement agencies may apply for a license under this subchapter at any time.

(b) The applicant shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency at which the applicant last served as a reserve law enforcement officer. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant;
- (3) whether the applicant was accused of misconduct at any time during the applicant's term of service and the disposition of that accusation;
- (4) a description of the physical and mental condition

of the applicant;

(5) a list of the types of weapons the applicant demonstrated proficiency with during the applicant's term of service; and

(6) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant was a reserve law enforcement officer for not less than a total of 15 years with one or more state or local law enforcement agencies and is physically and emotionally fit to possess a handgun.

(d) An applicant under this section must pay a fee of \$25 for a license issued under this subchapter.

(e) A former reserve law enforcement officer who obtains a license as provided by this section must maintain, for the category of weapon licensed, the proficiency required for the person under Section [1701.357](#), Occupations Code. The department or the local law enforcement agency at which the person last served as a reserve law enforcement officer shall allow the person an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section [411.183](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1080 (H.B. [3370](#)), Sec. 1, eff. September 1, 2013.

Sec. 411.200. APPLICATION TO LICENSED SECURITY OFFICERS. This subchapter does not exempt a license holder who is also employed as a security officer and licensed under Chapter 1702, Occupations Code, from the duty to comply with Chapter 1702, Occupations Code, or Section [46.02](#), Penal Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.759, eff. Sept. 1, 2001.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [3747](#) and H.B. [910](#),

84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.201. ACTIVE AND RETIRED JUDICIAL OFFICERS. (a) In this section:

(1) "Active judicial officer" means:

(A) a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court;

(B) a federal judge who is a resident of this state; or

(C) a person appointed and serving as an associate judge under Chapter 201, Family Code.

(2) "Retired judicial officer" means:

(A) a special judge appointed under Section 26.023 or 26.024; or

(B) a senior judge designated under Section 75.001 or a judicial officer as designated or defined by Section 75.001, 831.001, or 836.001.

(b) Notwithstanding any other provision of this subchapter, the department shall issue a license under this subchapter to an active or retired judicial officer who meets the requirements of this section.

(c) An active judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter. A retired judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter if the officer:

(1) has not been convicted of a felony;

(2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;

(3) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;

(4) is not a chemically dependent person; and

(5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

(1) a completed application, including all required affidavits, on a form prescribed by the department;

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(4) evidence of handgun proficiency, in the form and manner required by the department for an applicant under this section;

(5) a nonrefundable application and license fee set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a concealed handgun under this subchapter; and

(6) if the applicant is a retired judicial officer, a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

(e) On receipt of all the application materials required by this section, the department shall:

(1) if the applicant is an active judicial officer, issue a license to carry a concealed handgun under the authority of this subchapter; or

(2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a concealed handgun under the authority of this subchapter.

(f) Except as otherwise provided by this subsection, an applicant for a license under this section must satisfy the handgun proficiency requirements of Section 411.188. The classroom instruction part of the proficiency course for an active judicial

officer is not subject to a minimum hour requirement. The instruction must include instruction only on:

- (1) handgun use, proficiency, and safety; and
- (2) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(g) A license issued under this section expires as provided by Section [411.183](#) and may be renewed in accordance with Section [411.185](#).

(h) The department shall issue a license to carry a concealed handgun under the authority of this subchapter to an elected attorney representing the state in the prosecution of felony cases who meets the requirements of this section for an active judicial officer. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is an attorney elected or employed to represent the state in the prosecution of felony cases.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 402 (S.B. [835](#)), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. [2300](#)), Sec. 4, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 11.18, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. [79](#)), Sec. 13.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1387 (H.B. [48](#)), Sec. 4, eff. September 1, 2013.

Sec. 411.202. LICENSE A BENEFIT. The issuance of a license under this subchapter is a benefit to the license holder for purposes of those sections of the Penal Code to which the definition of "benefit" under Section [1.07](#), Penal Code, applies.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1,

1997.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter from carrying a concealed handgun on the premises of the business. In this section, "premises" has the meaning assigned by Section 46.035(f)(3), Penal Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1058 (S.B. 321), Sec. 2, eff. September 1, 2011.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. 910, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.2032. TRANSPORTATION AND STORAGE OF FIREARMS AND AMMUNITION BY LICENSE HOLDERS IN PRIVATE VEHICLES ON CERTAIN CAMPUSES. (a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(b) An institution of higher education or private or independent institution of higher education in this state may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Section 30.06, Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately

owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a concealed handgun under this subchapter and lawfully possesses the firearm or ammunition:

(1) on a street or driveway located on the campus of the institution; or

(2) in a parking lot, parking garage, or other parking area located on the campus of the institution.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1248 (S.B. 1907), Sec. 1, eff. September 1, 2013.

Sec. 411.204. NOTICE REQUIRED ON CERTAIN PREMISES. (a) A business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, and that derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code, shall prominently display at each entrance to the business premises a sign that complies with the requirements of Subsection (c).

(b) A hospital licensed under Chapter 241, Health and Safety Code, or a nursing home licensed under Chapter 242, Health and Safety Code, shall prominently display at each entrance to the hospital or nursing home, as appropriate, a sign that complies with the requirements of Subsection (c) other than the requirement that the sign include on its face the number "51".

(c) The sign required under Subsections (a) and (b) must give notice in both English and Spanish that it is unlawful for a person licensed under this subchapter to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid red at least five inches in height. The sign shall be displayed in a conspicuous manner clearly visible to the public.

(d) A business that has a permit or license issued under the Alcoholic Beverage Code and that is not required to display a sign under this section may be required to display a sign under Section 11.041 or 61.11, Alcoholic Beverage Code.

(e) This section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code. Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.16(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 523, Sec. 1, eff. June 18, 1999.

Sec. 411.205. REQUIREMENT TO DISPLAY LICENSE. If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.17(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 12A.02, eff. September 1, 2009.

Sec. 411.206. SEIZURE OF HANDGUN AND LICENSE. (a) If a peace officer arrests and takes into custody a license holder who is carrying a handgun under the authority of this subchapter, the officer shall seize the license holder's handgun and license as evidence.

(b) The provisions of Article [18.19](#), Code of Criminal Procedure, relating to the disposition of weapons seized in connection with criminal offenses, apply to a handgun seized under this subsection.

(c) Any judgment of conviction entered by any court for an offense under Section [46.035](#), Penal Code, must contain the handgun license number of the convicted license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 411.186(a)(4).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Sec. 411.207. AUTHORITY OF PEACE OFFICER TO DISARM. (a) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a license holder at any time the officer reasonably believes it is necessary for the protection of the license holder, officer, or another individual. The peace officer shall return the handgun to the license holder before discharging the license holder from the scene if the officer determines that the license holder is not a threat to the officer, license holder, or another individual and if the license holder has not violated any provision of this subchapter or committed any other violation that results in the arrest of the license holder.

(b) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a license holder when a license holder enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun locker where the peace officer can secure the license holder's handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the license holder immediately after the license holder leaves the nonpublic, secure portion of the law enforcement facility.

(c) A law enforcement facility shall prominently display at each entrance to a nonpublic, secure portion of the facility a sign that gives notice in both English and Spanish that, under this section, a peace officer may temporarily disarm a license holder when the license holder enters the nonpublic, secure portion of the facility. The sign must appear in contrasting colors with block letters at least one inch in height. The sign shall be displayed in a clearly visible and conspicuous manner.

(d) In this section:

(1) "Law enforcement facility" means a building or a portion of a building used exclusively by a law enforcement agency that employs peace officers as described by Articles 2.12(1) and (3), Code of Criminal Procedure, and support personnel to conduct the official business of the agency. The term does not include:

(A) any portion of a building not actively used exclusively to conduct the official business of the agency; or

(B) any public or private driveway, street,

sidewalk, walkway, parking lot, parking garage, or other parking area.

(2) "Nonpublic, secure portion of a law enforcement facility" means that portion of a law enforcement facility to which the general public is denied access without express permission and to which access is granted solely to conduct the official business of the law enforcement agency.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 572 (S.B. 1709), Sec. 1, eff. September 1, 2007.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. 11, 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 411.208. LIMITATION OF LIABILITY. (a) A court may not hold the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor liable for damages caused by:

(1) an action authorized under this subchapter or a failure to perform a duty imposed by this subchapter; or

(2) the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under this subchapter.

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this subchapter.

(c) The department is not responsible for any injury or damage inflicted on any person by an applicant or license holder arising or alleged to have arisen from an action taken by the department under this subchapter.

(d) The immunities granted under Subsections (a), (b), and (c) do not apply to an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, or a

peace officer if the act or failure to act was capricious or arbitrary.

(e) The immunities granted under Subsection (a) to a qualified handgun instructor do not apply to a cause of action for fraud or a deceptive trade practice.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.19, eff. September 1, 2009.

SUBCHAPTER I. INTERNAL OVERSIGHT

Sec. 411.241. OFFICE OF AUDIT AND REVIEW. The commission shall establish the office of audit and review. The office shall coordinate activities designed to promote effectiveness in departmental operations and to keep the commission and the legislature fully informed about deficiencies within the department. The office shall:

(1) inspect and audit departmental programs and operations for efficiency, uniformity, and compliance with established procedures and develop recommendations for improvement;

(2) coordinate and be responsible for promoting accountability, integrity, and efficiency in the department; and

(3) provide the commission with information relevant to its oversight of the department.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

Sec. 411.242. DIRECTOR OF AUDIT AND REVIEW. (a) The commission shall appoint the director of the office of audit and review. The director of audit and review serves until removed by the commission.

(b) The director of audit and review must satisfy the requirements to be the agency's internal auditor under Section 2102.006(b) and is considered to be the agency's internal auditor

for purposes of Chapter 2102.

(c) The department shall provide the director of audit and review with access to any records, data, or other information necessary to fulfill the purposes of this section and Section 411.243.

(d) The director of audit and review shall, with the advice and consent of the commission, determine which audits and inspections to perform and may publish the findings and recommendations of the office of audit and review.

(e) The director of audit and review shall:

(1) report to the commission regarding audits and inspections planned and the status and findings of those audits and inspections; and

(2) report to the director for administrative purposes and keep the director informed of the office's findings.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

Sec. 411.243. POWERS AND DUTIES. (a) The office of audit and review shall:

(1) independently and objectively inspect all divisions of the department to:

(A) ensure that operations are conducted efficiently, uniformly, and in compliance with established procedures; and

(B) make recommendations for improvements in operational performance;

(2) independently and objectively audit all divisions of the department to:

(A) promote economy, effectiveness, and efficiency within the department;

(B) prevent and detect fraud, waste, and abuse in department programs and operations; and

(C) make recommendations about the adequacy and effectiveness of the department's system of internal control policies and procedures;

(3) advise in the development and evaluation of the

department's performance measures;

(4) review actions taken by the department to improve program performance and make recommendations for improvement;

(5) review and make recommendations to the commission and the legislature regarding rules, laws, and guidelines relating to department programs and operations;

(6) keep the commission, director, and legislature fully informed of problems in department programs and operations; and

(7) ensure effective coordination and cooperation among the state auditor's office, legislative oversight committees, and other governmental bodies while attempting to avoid duplication.

(b) Chapter 2102 applies to the office of audit and review. Added by Acts 1999, 76th Leg., ch. 1189, Sec. 16, eff. Sept. 1, 1999.

SUBCHAPTER I-1. OFFICE OF INSPECTOR GENERAL

Sec. 411.251. ESTABLISHMENT AND PURPOSE. (a) The commission shall establish the office of inspector general.

(b) The office of inspector general is responsible for:

(1) acting to prevent and detect serious breaches of departmental policy, fraud, and abuse of office, including any acts of criminal conduct within the department; and

(2) independently and objectively reviewing, investigating, delegating, and overseeing the investigation of:

(A) conduct described in Subdivision (1);

(B) criminal activity occurring in all divisions of the department;

(C) allegations of wrongdoing by department employees;

(D) crimes committed on department property; and

(E) serious breaches of department policy.

Transferred, redesignated and amended from Government Code, Section 411.244 by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.252. OVERSIGHT OF INVESTIGATIONS. (a) The office of inspector general has departmental jurisdiction for oversight and coordination over all investigations occurring on department property or involving department employees.

(b) The office shall coordinate and provide oversight, but is not required to conduct all investigations under this subchapter.

(c) The inspector general shall delegate any investigation considered potentially appropriate for criminal prosecution to the Texas Ranger division or the criminal investigations division of the department for investigation or referral back to the inspector general for further action.

(d) The inspector general shall continually monitor an investigation referred to another division of the department under Subsection (c), and the inspector general and the division shall report to the commission on the status of the investigation while pending.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.253. INITIATION OF INVESTIGATIONS. The office of inspector general may only initiate an investigation based on:

- (1) authorization from the commission;
- (2) approval of the inspector general or deputy inspector general;
- (3) approval of the director, a deputy director, an assistant director of the Texas Rangers, or an assistant director of the criminal investigations division for criminal investigations; or
- (4) commission rules or approved commission policies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.254. COMMISSION APPOINTMENT AND OVERSIGHT.

(a) The commission shall appoint the inspector general and may appoint a deputy inspector general. The inspector general serves

until removed by the commission.

(b) The inspector general is not required to be a peace officer as that term is defined by Article 2.12, Code of Criminal Procedure. The commission or director may commission the inspector general as a commissioned peace officer of the department if the inspector general holds a permanent peace officer license issued under Chapter 1701, Occupations Code.

(c) The commission has direct oversight over the office of inspector general, including decisions regarding budget and staffing. The inspector general shall coordinate with the director for administrative support as provided by the commission.

(d) The commission shall establish policies to ensure that the commission continues to oversee the office of inspector general as required by this section and to ensure that the office of inspector general retains and exercises its original jurisdiction under Section 411.252.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.255. REPORTS. (a) The inspector general shall report directly to the commission regarding performance of and activities related to investigations and provide the director with information regarding investigations as appropriate.

(b) The inspector general shall present at each regularly scheduled commission meeting and at other appropriate times:

(1) reports of investigations; and

(2) a summary of information relating to investigations conducted under this subchapter that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and recommendations to avoid future complaints.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

Sec. 411.256. AUTHORITY OF STATE AUDITOR. This chapter or other law related to the operation of the department's office of inspector general does not preempt the authority of the state

auditor to conduct an audit or investigation under Chapter 321 or other law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1308 (H.B. 3099), Sec. 2, eff. September 1, 2011.

SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION PROGRAM

Sec. 411.261. DEFINITIONS. In this subchapter:

(1) "Attorney representing the state" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney.

(2) "Unsolved crime" means a criminal offense:

(A) that is an unsolved homicide or an unsolved felony that is one offense arising out of the same criminal episode as other unsolved felonies; and

(B) the investigation of which requires a level of expertise that is not readily available to local law enforcement agencies.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.

Sec. 411.262. UNSOLVED CRIMES INVESTIGATION PROGRAM. (a) The unsolved crimes investigation program is an investigative program within the department.

(b) The program is a function of the Texas Rangers and will be commanded by the chief of the Texas Rangers.

(c) The director may employ commissioned peace officers and noncommissioned employees to perform duties required of the program.

(d) To be eligible for employment under this section, a peace officer must be a sergeant or higher-ranked officer of the Texas Rangers and must have two or more years of experience in the investigation of homicides or other major felonies.

(e) To be eligible for employment under this section, a noncommissioned employee must meet the experience, training, and educational qualifications set by the director as requirements for investigating or assisting in the investigation of an unsolved crime.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 7.02, eff. June 19, 2009.

Sec. 411.263. ASSISTANCE ON REQUEST. On the request of an attorney representing the state and with the approval of the director, employees of the unsolved crimes investigation program of the department may assist local law enforcement in the investigation of crime.

Added by Acts 2001, 77th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 7.03, eff. June 19, 2009.

SUBCHAPTER K. DEPARTMENT OF PUBLIC SAFETY HISTORICAL MUSEUM AND
RESEARCH CENTER

Sec. 411.281. DEFINITION. In this subchapter, "museum" means the nonprofit organization, known as the Department of Public Safety Historical Museum and Research Center, established by employees and former employees of the department for the purposes of creating and operating a museum and research facility to:

(1) inform the public about the personnel and history of the department; and

(2) educate young people about law enforcement procedures through an interactive facility.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001.

Renumbered from Government Code Sec. 411.301 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.282. GENERAL PROVISIONS. The commission may:

(1) establish a support staff in the department to assist the museum;

(2) use department property to fulfill the purposes of this subchapter; and

(3) enter into a contract with the museum.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 411.302 by Acts 2003, 78th
Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.283. PERSONNEL. (a) The director may appoint and assign duties to department personnel to serve as paid support staff for the museum.

(b) The support staff may consist of a historian, a librarian, and other personnel as needed to administer the museum.

(c) The department may spend funds to hire support staff.
Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 411.303 by Acts 2003, 78th
Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

Sec. 411.284. FUNDING. (a) The Department of Public Safety Historical Museum and Research Center account is created as a special account outside the state treasury to be held at the Department of Public Safety Credit Union and to be administered by the commission. The money in the account may be used only to administer this subchapter.

(b) The account is composed of gifts, grants, and donations collected by the department from any public or private source for the purposes of this subchapter.

Added by Acts 2001, 77th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Government Code Sec. 411.304 by Acts 2003, 78th
Leg., ch. 1275, Sec. 2(59), eff. Sept. 1, 2003.

SUBCHAPTER L. STATEWIDE AMERICA'S MISSING: BROADCAST EMERGENCY
RESPONSE (AMBER) ALERT SYSTEM FOR ABDUCTED CHILDREN AND MISSING
PERSONS WITH INTELLECTUAL DISABILITIES

Sec. 411.351. DEFINITIONS. In this subchapter:

(1) "Abducted child" means a child 17 years of age or younger whose whereabouts are unknown and whose disappearance poses a credible threat to the safety and health of the child, as determined by a local law enforcement agency.

(2) "Alert system" means the statewide America's

Missing: Broadcast Emergency Response (AMBER) alert system for abducted children and missing persons with intellectual disabilities.

(2-a) "Intellectual disability" means significantly subaverage general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period. The term includes a pervasive developmental disorder.

(3) "Local law enforcement agency" means a local law enforcement agency with jurisdiction over the investigation of:

(A) the abduction of a child; or

(B) a missing person with an intellectual disability.

(3-a) "Pervasive developmental disorder" means a disorder that meets the criteria for a pervasive developmental disorder established in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(4) "Serious bodily injury" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 2, eff. September 1, 2011.

Sec. 411.352. STATEWIDE AMERICA'S MISSING: BROADCAST EMERGENCY RESPONSE (AMBER) ALERT SYSTEM FOR ABDUCTED CHILDREN AND MISSING PERSONS WITH INTELLECTUAL DISABILITIES. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement a statewide alert system to be activated on behalf of an abducted child or a missing person with an intellectual disability.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 3, eff. September 1, 2011.

Sec. 411.353. ADMINISTRATION. (a) The director is the statewide coordinator of the alert system.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert system. The rules and directives must include instructions on the procedures for activating and deactivating the alert system.

(c) The director shall prescribe forms for use by local law enforcement agencies in requesting activation of the alert system.
Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.354. DEPARTMENT TO RECRUIT PARTICIPANTS. (a) The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert system.

(b) The department may enter into agreements with participants in the alert system to provide necessary support for the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.355. ACTIVATION. (a) On the request of a local law enforcement agency regarding an abducted child, the department shall activate the alert system and notify appropriate participants in the alert system, as established by rule, if:

(1) the local law enforcement agency believes that a child has been abducted, including a child who:

(A) is younger than 14 years of age; and

(B) regardless of whether the child departed willingly with the other person, has been taken from the care and custody of the child's parent or legal guardian without the permission of the parent or legal guardian by another person who is:

(i) more than three years older than the child; and

(ii) not related to the child by any degree of consanguinity or affinity as defined under Subchapter B, Chapter 573, Government Code;

(2) the local law enforcement agency believes that the abducted child is in immediate danger of serious bodily injury or death or of becoming the victim of a sexual assault;

(3) the local law enforcement agency confirms that a preliminary investigation has taken place that verifies the abduction and eliminates alternative explanations for the child's disappearance; and

(4) sufficient information is available to disseminate to the public that could assist in locating the child, a person suspected of abducting the child, or a vehicle suspected of being used in the abduction.

(b) On the request of a local law enforcement agency regarding a missing person with an intellectual disability, the department shall activate the alert system and notify appropriate participants in the alert system, as established by rule, if:

(1) the local law enforcement agency receives notice of a missing person with an intellectual disability;

(2) the local law enforcement agency verifies that at the time the person is reported missing:

(A) the person has an intellectual disability, as determined according to the procedure provided by Section [593.005](#), Health and Safety Code; and

(B) the person's location is unknown;

(3) the local law enforcement agency determines that the person's disappearance poses a credible threat to the person's health and safety; and

(4) sufficient information is available to disseminate to the public that could assist in locating the person.

(c) The department may modify the criteria described by Subsection (a) or (b) as necessary for the proper implementation of the alert system.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1404 (H.B. [3385](#)), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. [1075](#)), Sec. 4, eff. September 1, 2011.

Sec. 411.356. LOCAL LAW ENFORCEMENT AGENCIES. Before requesting activation of the alert system, a local law enforcement agency must verify that the criteria described by Section 411.355(a) or (b), as applicable, have been satisfied. On verification of the applicable criteria, the local law enforcement agency shall immediately contact the department to request activation and shall supply the necessary information on the forms prescribed by the director.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 5, eff. September 1, 2011.

Sec. 411.357. STATE AGENCIES. (a) A state agency participating in the alert system shall:

(1) cooperate with the department and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the alert system has been activated.

(b) In addition to its duties as a state agency under Subsection (a), the Texas Department of Transportation shall establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Sec. 411.358. TERMINATION. The director shall terminate any activation of the alert system with respect to a particular abducted child or a particular missing person with an intellectual disability if:

(1) the abducted child or missing person is recovered or the situation is otherwise resolved; or

(2) the director determines that the alert system is no longer an effective tool for locating and recovering the abducted child or missing person.

Added by Acts 2003, 78th Leg., ch. 789, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 6, eff. September 1, 2011.

Sec. 411.359. SYSTEM NAME. The director by rule may assign a name other than America's Missing: Broadcast Emergency Response (AMBER) to the alert system when the system is activated regarding a missing person with an intellectual disability.

Added by Acts 2011, 82nd Leg., R.S., Ch. 737 (H.B. 1075), Sec. 7, eff. September 1, 2011.

SUBCHAPTER M. SILVER ALERT FOR MISSING SENIOR CITIZENS

Sec. 411.381. DEFINITIONS. In this subchapter:

(1) "Alert" means the statewide silver alert for missing senior citizens developed and implemented under this subchapter.

(2) "Local law enforcement agency" means a local law enforcement agency with jurisdiction over the investigation of a missing senior citizen.

(3) "Senior citizen" means a person who is 65 years of age or older.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.

Sec. 411.382. SILVER ALERT FOR MISSING SENIOR CITIZENS. With the cooperation of the Texas Department of Transportation, the office of the governor, and other appropriate law enforcement agencies in this state, the department shall develop and implement a statewide silver alert to be activated on behalf of a missing senior citizen.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.

Sec. 411.383. ADMINISTRATION. (a) The director is the statewide coordinator of the alert.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert. The rules and directives must include:

(1) the procedures to be used by a local law enforcement agency to verify whether a senior citizen:

(A) is missing; and

(B) has an impaired mental condition;

(2) a description of the circumstances under which a local law enforcement agency is required to report a missing senior citizen to the department; and

(3) the procedures to be used by an individual or entity to report information about a missing senior citizen to designated media outlets in Texas.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. [1315](#)), Sec. 1, eff. September 1, 2007.

Sec. 411.384. DEPARTMENT TO RECRUIT PARTICIPANTS. The department shall recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. [1315](#)), Sec. 1, eff. September 1, 2007.

Sec. 411.385. DUTIES OF TEXAS DEPARTMENT OF TRANSPORTATION. The Texas Department of Transportation shall:

(1) cooperate with the department and assist in developing and implementing the alert; and

(2) establish a plan for providing relevant information to the public through an existing system of dynamic message signs located across the state.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. [1315](#)), Sec. 1, eff. September 1, 2007.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [834](#), 84th Legislature, Regular Session, for amendments affecting this

section.

Sec. 411.386. NOTIFICATION TO DEPARTMENT OF MISSING SENIOR CITIZEN. (a) A local law enforcement agency may notify the department if the agency:

(1) receives notice of a missing senior citizen;

(2) verifies that at the time the senior citizen is reported missing:

(A) the person reported missing is 65 years of age or older;

(B) the senior citizen's location is unknown;

(C) the senior citizen's domicile is in Texas; and

(D) the senior citizen has an impaired mental condition; and

(3) determines that the senior citizen's disappearance poses a credible threat to the senior citizen's health and safety.

(b) The local law enforcement agency shall:

(1) require the family or legal guardian of the missing senior citizen to provide documentation of the senior citizen's impaired mental condition to verify the condition as required by Subsection (a)(2)(D); and

(2) as soon as practicable, determine whether the senior citizen's disappearance poses a credible threat to the senior citizen's health and safety for purposes of Subsection (a)(3).

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. [1315](#)), Sec. 1, eff. September 1, 2007.

Sec. 411.387. ACTIVATION OF SILVER ALERT. (a) When a local law enforcement agency notifies the department under Section 411.386, the department shall confirm the accuracy of the information and, if confirmed, immediately issue an alert under this subchapter in accordance with department rules.

(b) In issuing the alert, the department shall send the alert to designated media outlets in Texas. Following receipt of the alert, participating radio stations, television stations, and other media outlets may issue the alert at designated intervals to

assist in locating the missing senior citizen.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.

Sec. 411.388. CONTENT OF SILVER ALERT. The alert must include:

(1) all appropriate information that is provided by the local law enforcement agency and that may lead to the safe recovery of the missing senior citizen; and

(2) a statement instructing any person with information related to the missing senior citizen to contact a local law enforcement agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.

Sec. 411.389. TERMINATION OF SILVER ALERT. (a) The director shall terminate any activation of the alert with respect to a particular missing senior citizen not later than the earlier of the date on which:

(1) the missing senior citizen is located or the situation is otherwise resolved; or

(2) the notification period ends, as determined by department rule.

(b) A local law enforcement agency that locates a missing senior citizen who is the subject of an alert under this subchapter shall notify the department as soon as possible that the missing senior citizen has been located.

Added by Acts 2007, 80th Leg., R.S., Ch. 69 (S.B. 1315), Sec. 1, eff. September 1, 2007.

SUBCHAPTER N. INTEROPERABLE STATEWIDE EMERGENCY RADIO INFRASTRUCTURE

Sec. 411.401. DEFINITION. In this subchapter, "emergency radio infrastructure" means radio frequency hardware, software, or auxiliary equipment that:

(1) provides dispatch communications for this state

and local governments to public safety agencies; and

(2) allows interoperable communication between public safety agencies, including communication between different types of public safety agencies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 701 (H.B. 442), Sec. 1, eff. September 1, 2011.

Sec. 411.402. USE OF REVENUE. (a) Fees collected under Section 133.102(e)(11), Local Government Code, may only:

(1) be used for the planning, development, provision, enhancement, or ongoing maintenance of an interoperable statewide emergency radio infrastructure;

(2) be used in accordance with the statewide integrated public safety radio communications plan developed under Subchapter F, Chapter 421;

(3) be used for the development of a regional or state interoperable radio communication system;

(4) be distributed as grants by the department to:

(A) regional councils of government that have entered into interlocal agreements authorized under state law; and

(B) state agencies requiring emergency radio infrastructure; or

(5) be used for other public safety purposes.

(b) Fees collected and distributed as provided by this subchapter may not be used to purchase or maintain radio subscriber equipment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 701 (H.B. 442), Sec. 1, eff. September 1, 2011.

Sec. 411.403. EMERGENCY RADIO INFRASTRUCTURE ACCOUNT. (a) The emergency radio infrastructure account is an account in the general revenue fund.

(b) The account consists of:

(1) fees deposited in the account as provided by Section 133.102(e)(11), Local Government Code; and

(2) notwithstanding Section 404.071, all interest attributable to money held in the account.

(c) Money in the account may be appropriated to the department for the purposes described by Section 411.402.

(d) Section 403.095 does not apply to the account.
Added by Acts 2011, 82nd Leg., R.S., Ch. 701 (H.B. 442), Sec. 1, eff. September 1, 2011.

SUBCHAPTER O. PREVENTION OF SCRAP METAL THEFT GRANT PROGRAM

Sec. 411.421. DEFINITION. In this subchapter, "regulated material" has the meaning assigned by Section 1956.001, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 20, eff. September 1, 2011.

Redesignated from Government Code, Subchapter N, Chapter 411 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(21), eff. September 1, 2013.

Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION.

(a) From fines collected and distributed to the department under Sections 1956.040(a-2) and (a-4), Occupations Code, the commission by rule shall establish and implement a grant program to provide funding to assist local law enforcement agencies in preventing the theft of regulated material.

(b) To be eligible for a grant, a recipient must be a local law enforcement agency that has established a program designed to prevent the theft of regulated material.

(c) Rules adopted under this section must:

(1) include accountability measures for grant recipients and provisions for loss of eligibility for grant recipients that fail to comply with the measures; and

(2) require grant recipients to provide to the department information on program outcomes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 20, eff. September 1, 2011.

Redesignated from Government Code, Subchapter N, Chapter 411 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(21), eff. September 1, 2013.