

FBI Background Checks

Relating to HHSC's ability to fulfill its statutory mandate to run FBI background checks



TEXAS
Health and Human
Services

Sen. Lois W. Kolkhorst • Senate Bill 2200 | Rep. John Turner • House Bill 3699

Problem

- The Texas Health and Human Services Commission uses a person's background or criminal history record information (CHRI) based on their fingerprints to help with decisions related to hiring, volunteers, licenses, direct-care contracting and other areas.
- The Texas Department of Public Safety (DPS) operates the Fingerprint Applicant Clearinghouse of Texas (FACT), which is a repository of DPS and FBI fingerprint-based CHRI used by certain state entities and authorized by statute.
- With the passage of Senate Bill 200 by the 84th Legislature and other legislation related to the HHS system's transformation, a number of programs transferred from different health and human services agencies to HHSC, including:
 - State hospitals (formerly at DSHS)
 - State supported living centers (formerly at DADS)
 - Guardianship (formerly at DADS)
 - Long-term care regulatory (formerly at DADS), including nursing homes and assisted living facilities
 - Health Care Quality Unit (formerly at DSHS), including hospitals

- Child care licensing (formerly at DFPS), including day cares and residential child care operations
- The FBI recently communicated to DPS that SB 200's legislative changes did not include explicit statutory authority granting HHSC the authority to access CHRI, which had been previously granted to the HHS agencies that formerly housed these programs.
- Without statutory changes to explicitly name HHSC as an agency authorized to obtain CHRI information through the FACT to conduct background checks, the agency will lose the authority to access this information. This would mean the agency might not be aware of criminal instances in someone's past that could jeopardize the health and safety of Texans served in our state-operated facilities, facilities we regulate, and other vulnerable Texans who interact with the agency.

Solution

- The Texas Government Code, Chapter 411, should be amended to include HHSC by name to ensure that health and human services agencies can continue to obtain accurate and comprehensive criminal history record information.

Questions, comments or concerns?

Contact Claudia A. Tijerina • Claudia.Tijerina01@hhsc.state.tx.us

FBI Background Checks

Senate Bill 2200 | House Bill 3699

What happens if we don't change the statute?

Without a change in statute, the FBI will revoke HHSC's authority to access FAST data. HHSC would not be able to fulfill its statutory mandate to run FBI background checks on its employees and certain volunteers, meaning the agency could only rely on less reliable name-based checks when making decisions related to hiring, licenses and contracting.

Q&A

Why does HHSC need to be able to access criminal history record information?

HHSC needs access to this data to ensure the agency is thoroughly aware of a person's criminal history before they are hired, granted a license or given other types of authority. This is especially important when considering that many licensed individuals work with vulnerable populations such as children, people with disabilities and health-care professionals in settings such as day cares and nursing homes.

Why is HHSC in danger of losing the ability to access background information from DPS?

Through the HHSC Transformation process, the agencies that used FACT to obtain background information (DFPS, DADS, DARS and DSHS) consolidated under HHSC. While individual health and human services agencies were specifically granted statutory authority to use FACT, HHSC was not.

Questions, comments or concerns?

Contact Claudia A. Tijerina • Claudia.Tijerina01@hhsc.state.tx.us



TEXAS
Health and Human
Services