

- SUBJECT:** Public access to certain DPS criminal history information
- COMMITTEE:** Public Safety — favorable, without amendment
- VOTE:** 7 ayes — Oakley, Driver, Keel, Keffer, Madden, McClendon, E. Reyna
0 nays
2 absent — Carter, Olivo
- WITNESSES:** For — None
Against — None
On — Paul C. Jordan and David Gavin, Department of Public Safety
- BACKGROUND :** The Department of Public Safety (DPS) can release criminal history record information to criminal justice agencies and over 20 state agencies or other entities. DPS is authorized to charge fees to persons who are not primarily criminal justice agencies for processing inquiries for criminal history record information. DPS may charge \$15 for inquiries based on fingerprints and \$10 for inquiries based on a person's name, unless the inquiry is submitted electronically or by magnetic media, in which case it can charge \$1.
- DIGEST:** HB1176 would give any person access to certain criminal history record information maintained by DPS. Anyone would have access to information that is a court record of a public judicial proceeding that relates to convictions for any criminal offense and grants of deferred adjudication to persons charged with a felony. The bill also would allow anyone access to the public information that is kept by the department as part of the sex offender registration system.
- DPS would be required to design and implement a system to respond to inquiries, including electronic ones, to the information required to be released. Persons who obtained the information could use it for any purpose and could release it to any other person. DPS would have to implement the system by January 1, 1998.

HB 1176 also would add sex offender registration information kept by DPS to the types of information for which DPS can charge fees to persons requesting information if the persons are not primarily criminal justice agencies.

HB 1176 would take effect September 1, 1997.

SUPPORTERS
SAY:

HB 1176 would give all persons easier access to public information. The bill would not make any new information public but simply allow the public to access this information from one source — the Department of Public Safety. Any hesitation about the use of computers to access public information or statewide databases should not prevent the Legislature from making it easier for persons to access information that they can already legally obtain.

Court records, including conviction and deferred adjudication information, is already public information, but it can be difficult to obtain. Persons must go to their local court house and request the information. This can be time consuming and difficult and only reveals information about a person's criminal record in that particular county. However, this information is compiled in a statewide criminal history record database by DPS. HB 1176 would allow anyone to get certain information from DPS instead of going to their local courthouse or other agency. Allowing access to this public information from the DPS would make getting the information easier and more efficient and would provide more information about a person's statewide criminal history. This public information might be used by day care centers or volunteer agencies to check the backgrounds of employees or volunteers.

Currently, DPS is required to maintain a computerized central database containing only sex offender registration information, and certain information in this database is public information. HB 1176 would require this information to be included in the system that DPS is required to implement under the bill. Having easy access to this public information would allow the public to have better information and to better protect itself against released sex offenders, who are often repeat offenders.

HB 1176 would allow persons to receive from DPS only conviction and

deferred adjudication data, not all the criminal record information kept by the department. The database would not include arrest information, ensuring that information on someone who is only suspected of a crime would not be available. It is necessary to include convictions, and not only final convictions, so that person placed on probation would show up in the database. Similarly, the public should have easy access to information about the disposition of cases in which persons were placed on deferred adjudication because this is public information that could affect public safety. Persons given probation or deferred adjudication are subject to the sex offender registration law and should also be included in the database required by HB 1176.

HB 1176 would give DPS enough flexibility to develop the most useful type of system to respond to electronic and other inquiries for this public information. It may be that an electronic bulletin board or an Internet site would be best to handle the inquiries. DPS now has the technology to develop this database. HB 1176 would result in a gain of about \$1.9 million annually for the general fund from the fees that DPS would be able to charge for inquiries for criminal histories.

HB 1176 also would give DPS authority to charge fees to person requesting sex offender information, just as it can do currently for other criminal history information.

**OPPONENTS
SAY:**

The state should be cautious about the use of statewide databases of information that could be misused and misinterpreted. For example, persons who have been placed on deferred adjudication have not been found guilty of an offense, and this information could be misconstrued. In addition, convictions, which include persons placed on probation, are not considered final convictions but would be available through the database.

As the state makes it easier for persons to access public information about criminal histories, it could become more difficult for persons with criminal backgrounds to reintegrate into society.