AN ACT
relating to the liability of in-home service companies and
residential delivery companies for negligent hiring.

BE IT ENacted BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 145.001, Civil Practice and Remedies
Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Residence" means a person's principal or
ordinary home or dwelling place and includes:

(A) any garage that is attached to the home or
dwelling place; and

(B) any construction area that is attached to and
accessible from the inhabited area or the attached garage of the
home or dwelling place.

SECTION 2. Chapter 145, Civil Practice and Remedies Code,
is amended by adding Section 145.0015 to read as follows:

Sec. 145.0015. SHORT TITLE. This chapter may be cited as
the Sue Weaver Act.

SECTION 3. Section 145.002, Civil Practice and Remedies
Code, is amended to read as follows:

Sec. 145.002. CRIMINAL HISTORY BACKGROUND CHECK. Before
associating with or hiring an officer, employee, or prospective
employee in a position whose duties include entry into another
person's residence, an [AB] in-home service company or residential
delivery company shall:
(1) obtain from the Department of Public Safety or a private vendor [approved by the department and offering services comparable to the services offered by the department] all criminal history record information relating to an officer, employee, or prospective employee; or

(2) ascertain that the person holds in good standing an occupational license issued by a licensing authority in this state that has, before issuing or renewing the license, performed a criminal history background check [of the company whose job duties require or will require entry into another person's residence].

SECTION 4. Subsections (a) and (b), Section 145.003, Civil Practice and Remedies Code, are amended to read as follows:

(a) This section applies only to an action against an in-home service company or residential delivery company that:

(1) arises out of a criminal act or omission by an officer or employee of the company as to whom the company has obtained [is required to obtain] criminal history record information under Section 145.002(1) [145.002];

(2) is brought by or on behalf of a person whose home the officer or employee entered while in the performance of the employee's job duties, without regard to where the criminal act or omission occurred; and

(3) seeks damages from the company for the negligent hiring of the officer or employee.

(b) In an action to which this section applies, an in-home service company or residential delivery company is rebuttably presumed to have not acted negligently if:
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(1) at the time a person was hired, the company obtained criminal history record information regarding the officer or employee under Section 145.002(1); and

(2) the criminal history record information shows that, in the 20 years preceding the date the information was obtained for a felony or in the 10 years preceding the date the information was obtained for a Class A or Class B misdemeanor, the officer or employee had not been convicted of, or placed on deferred adjudication for:

(A) an offense in this state classified as:

   (i) an offense against the person or the family;

   (ii) an offense against property; or

   (iii) public indecency; or

(B) an offense in another jurisdiction that would be classified in a category described by Paragraph (A) if the offense had occurred in this state.

SECTION 5. Subsection (b), Section 411.1181, Government Code, is amended to read as follows:

(b) An in-home service company or residential delivery company is entitled to obtain from the Department of Public Safety [or a private vendor approved by the department and offering services comparable to the services offered by the department] 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
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(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.

SECTION 6. (a) The changes in law made by Sections 1 and 4 of this Act to Sections 145.001 and 145.003, Civil Practice and Remedies Code, apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Sections 3 and 5 of this Act apply only to criminal history background check information obtained by an in-home service company or residential delivery company on or after the effective date of this Act. Criminal history background check information obtained before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2009.
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David Dewhurst  
President of the Senate

John Sbona  
Speaker of the House

I hereby certify that S.B. No. 627 passed the Senate on March 19, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 29, 2009, by the following vote: Yeas 31, Nays 0.

Jane Nelson  
Secretary of the Senate

I hereby certify that S.B. No. 627 passed the House, with amendments, on May 20, 2009, by the following vote: Yeas 136, Nays 0, one present not voting.

Robert Perry  
Chief Clerk of the House

Approved:
19 JUN '09  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF TIL:
SECRETARY OF STATE

2PM O'CLOCK

JUN 19 2009

Colby Hunter, III