

1-1 By: Shapleigh S.B. No. 418
1-2 (In the Senate - Filed March 1, 2005; March 1, 2005, read
1-3 first time and referred to Committee on Government Organization;
1-4 April 7, 2005, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 7, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to continuation and functions of the State Board for
1-9 Educator Certification.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (a), Section 7.056, Education Code,
1-12 is amended to read as follows:

1-13 (a) Except as provided by this subsection and Subsection
1-14 (e), a school campus or district may apply to the commissioner for a
1-15 waiver of a requirement, restriction, or prohibition imposed by
1-16 this code or rule of the board or commissioner. A waiver of a
1-17 requirement related to educator certification under Subchapter B,
1-18 Chapter 21, is governed by Section 21.0572.

1-19 SECTION 2. Subsection (a), Section 21.003, Education Code,
1-20 is amended to read as follows:

1-21 (a) A person may not be employed as a teacher, teacher
1-22 intern or teacher trainee, librarian, educational aide,
1-23 administrator, educational diagnostician, or counselor by a school
1-24 district unless the person holds an appropriate certificate or
1-25 permit issued as provided by Subchapter B.

1-26 SECTION 3. Subchapter B, Chapter 21, Education Code, is
1-27 amended by adding Sections 21.0331, 21.0332, and 21.0341 to read as
1-28 follows:

1-29 Sec. 21.0331. INELIGIBILITY TO SERVE ON BOARD;
1-30 INELIGIBILITY FOR CERTAIN POSITIONS. (a) In this section, "Texas
1-31 trade association" means a cooperative and voluntarily joined
1-32 statewide association of business or professional competitors in
1-33 this state designed to assist its members and its industry or
1-34 profession in dealing with mutual business or professional problems
1-35 and in promoting their common interest.

1-36 (b) A person may not be a member of the board and may not be a
1-37 board employee employed in a "bona fide executive, administrative,
1-38 or professional capacity," as that phrase is used for purposes of
1-39 establishing an exemption to the overtime provisions of the federal
1-40 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
1-41 if:

1-42 (1) the person is an officer, employee, or paid
1-43 consultant of a Texas trade association in the field of education;
1-44 or

1-45 (2) the person's spouse is an officer, manager, or paid
1-46 consultant of a Texas trade association in the field of education.

1-47 (c) A person may not be a member of the board or act as the
1-48 general counsel to the board if the person is required to register
1-49 as a lobbyist under Chapter 305, Government Code, because of the
1-50 person's activities for compensation on behalf of a profession
1-51 related to the operation of the board.

1-52 Sec. 21.0332. TRAINING PROGRAM FOR MEMBERS OF BOARD.

1-53 (a) A person who is appointed and qualifies for office as a member
1-54 of the board may not vote, deliberate, or be counted as a member in
1-55 attendance at a meeting of the board until the person completes a
1-56 training program that complies with this section.

1-57 (b) The training program must provide the person with
1-58 information regarding:

1-59 (1) this subchapter and the programs, functions,
1-60 rules, and budget of the board;

1-61 (2) the results of the most recent formal audit of the
1-62 board;

1-63 (3) the requirements of laws relating to open
1-64 meetings, public information, administrative procedure, and

2-1 conflicts of interest; and

2-2 (4) any applicable ethics policies adopted by the
2-3 board or the Texas Ethics Commission.

2-4 (c) A person appointed to the board is entitled to
2-5 reimbursement, as provided by the General Appropriations Act, for
2-6 the travel expenses incurred in attending the training program,
2-7 regardless of whether attendance at the program occurs before or
2-8 after the person qualifies for office.

2-9 Sec. 21.0341. REMOVAL FROM BOARD. (a) It is a ground for
2-10 removal from the board that a member:

2-11 (1) does not have at the time of taking office the
2-12 applicable qualifications for office under Section 21.033;

2-13 (2) except as provided by Subsection (b), does not
2-14 maintain during service on the board the applicable qualifications
2-15 for office under Section 21.033;

2-16 (3) is ineligible for membership under Section
2-17 21.0331;

2-18 (4) cannot, because of illness or disability,
2-19 discharge the member's duties for a substantial part of the member's
2-20 term; or

2-21 (5) is absent from more than half of the regularly
2-22 scheduled board meetings that the member is eligible to attend
2-23 during a calendar year, without an excuse approved by a majority
2-24 vote of the board.

2-25 (b) A member of the board appointed under Section
2-26 21.033(a)(1) who retires from teaching during the member's term of
2-27 office is entitled to complete the term.

2-28 (c) The validity of an action of the board is not affected by
2-29 the fact that the action was taken when a ground for removal of a
2-30 board member existed.

2-31 (d) If the executive director has knowledge that a potential
2-32 ground for removal exists, the executive director shall notify the
2-33 presiding officer of the board of the potential ground. The
2-34 presiding officer shall then notify the governor and the attorney
2-35 general that a potential ground for removal exists. If the
2-36 potential ground for removal involves the presiding officer, the
2-37 executive director shall notify the next highest ranking officer of
2-38 the board, who shall then notify the governor and the attorney
2-39 general that a potential ground for removal exists.

2-40 SECTION 4. Subsection (a), Section 21.035, Education Code,
2-41 is amended to read as follows:

2-42 (a) The board is subject to Chapter 325, Government Code
2-43 (Texas Sunset Act). Unless continued in existence as provided by
2-44 that chapter, the board is abolished and this subchapter expires
2-45 September 1, 2017 [2005].

2-46 SECTION 5. Section 21.036, Education Code, is amended to
2-47 read as follows:

2-48 Sec. 21.036. OFFICERS. (a) The governor [board] shall
2-49 designate [elect] one of the board [its] members to serve as
2-50 presiding officer of the board [for a term of two years]. The
2-51 presiding officer serves at the pleasure of the governor and is
2-52 entitled to vote on all matters before the board.

2-53 (b) The board may elect other officers from among its
2-54 membership.

2-55 SECTION 6. Subchapter B, Chapter 21, Education Code, is
2-56 amended by adding Sections 21.0401 and 21.0402 to read as follows:

2-57 Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The
2-58 board shall obtain a complete set of fingerprints from:

2-59 (1) each applicant for a certificate issued under this
2-60 subchapter; and

2-61 (2) each applicant for or holder of a teaching permit
2-62 or provisional certificate issued under this subchapter.

2-63 Sec. 21.0402. INFORMATIONAL MATERIALS RELATING TO
2-64 CERTIFICATION REQUIREMENTS. (a) The board shall develop and
2-65 update as necessary informational materials regarding the
2-66 requirements for educator certification, including information
2-67 related to criminal history check requirements and the type of
2-68 criminal history that could prevent a person from becoming
2-69 certified.

3-1 (b) The board shall make the informational materials
 3-2 described by Subsection (a) available to each educator preparation
 3-3 program or alternative certification program.

3-4 SECTION 7. Subsections (b) and (c), Section 21.041,
 3-5 Education Code, are amended to read as follows:

3-6 (b) The board shall propose rules that:

3-7 (1) provide for the regulation of educators and the
 3-8 general administration of this subchapter in a manner consistent
 3-9 with this subchapter;

3-10 (2) specify the classes of educator certificates to be
 3-11 issued, including emergency certificates;

3-12 (3) specify the period for which each class of
 3-13 educator certificate is valid;

3-14 (4) specify the requirements for the issuance and
 3-15 renewal of an educator certificate;

3-16 (5) provide for the issuance of an educator
 3-17 certificate to a person who holds a similar certificate issued by
 3-18 another state or foreign country, subject to Section 21.052;

3-19 (6) provide for special or restricted certification of
 3-20 educators, including certification of instructors of American Sign
 3-21 Language;

3-22 (7) provide for the investigation of complaints of
 3-23 disciplinary violations, including:

3-24 (A) a deadline for each action in the
 3-25 investigation of a complaint;

3-26 (B) notification requirements for each party
 3-27 involved in the complaint; and

3-28 (C) a method for designating the severity of an
 3-29 alleged violation that allows the board to set priorities for
 3-30 conducting investigations;

3-31 (8) provide for disciplinary proceedings, including
 3-32 the suspension or revocation of an educator certificate, as
 3-33 provided by Chapter 2001, Government Code;

3-34 (9) [~~(8)~~] provide for the adoption, amendment, and
 3-35 enforcement of an educator's code of ethics;

3-36 (10) [~~(9)~~] provide for continuing education
 3-37 requirements; and

3-38 (11) [~~(10)~~] provide for certification of persons
 3-39 performing appraisals under Subchapter H.

3-40 (c) The board shall propose rules [~~a rule~~] adopting fees [~~a~~
 3-41 ~~fee~~] for:

3-42 (1) the issuance and maintenance of each [an] educator
 3-43 certificate, including a provisional certificate, that is adequate
 3-44 to cover the cost of administration of this subchapter, including
 3-45 any amount necessary to cover the cost of obtaining fingerprints
 3-46 under Section 21.0401 or conducting a national criminal background
 3-47 check under Section 22.082; and

3-48 (2) covering the cost of obtaining fingerprints from
 3-49 or conducting a national criminal background check on a holder of a
 3-50 teaching permit issued under this subchapter.

3-51 SECTION 8. Subchapter B, Chapter 21, Education Code, is
 3-52 amended by adding Sections 21.0411 through 21.0414 to read as
 3-53 follows:

3-54 Sec. 21.0411. DEVELOPMENT OF PROPOSED RULES. (a) This
 3-55 section applies to the process by which the State Board for Educator
 3-56 Certification develops proposed rules for the State Board of
 3-57 Education's consideration under Section 21.042 before the proposed
 3-58 rules are published in the Texas Register and before the State Board
 3-59 for Educator Certification or the State Board of Education complies
 3-60 with the rulemaking requirements of Chapter 2001, Government Code.
 3-61 This section does not affect any duty to comply with the rulemaking
 3-62 requirements of that law.

3-63 (b) The State Board for Educator Certification shall
 3-64 establish a checklist of methods that, to the extent appropriate,
 3-65 the board will follow to obtain early in the rule development
 3-66 process the advice and opinions of the public and of persons who
 3-67 will be most affected by a proposed rule. The checklist must
 3-68 include methods for identifying persons who will be most affected
 3-69 and for soliciting at a minimum the advice and opinions of the

4-1 agency, other state agency personnel, educators, school district
 4-2 administrators, and, to the extent appropriate, parents. The
 4-3 checklist may include negotiated rulemaking, informal conferences,
 4-4 advisory committees, and any other appropriate method.

4-5 (c) A rule proposed by the State Board for Educator
 4-6 Certification and adopted by the State Board of Education may not be
 4-7 challenged on the grounds that the State Board for Educator
 4-8 Certification did not comply with this section.

4-9 (d) This section does not apply to the proposal of an
 4-10 emergency rule to be adopted in accordance with Section 2001.034,
 4-11 Government Code.

4-12 Sec. 21.0412. PUBLIC TESTIMONY. The board shall develop
 4-13 and implement policies designed to provide the public with a
 4-14 reasonable opportunity to appear before the board and to speak on
 4-15 any issue under the board's jurisdiction.

4-16 Sec. 21.0413. NEGOTIATED RULEMAKING AND ALTERNATIVE
 4-17 DISPUTE RESOLUTION. (a) The board shall develop and implement a
 4-18 policy to encourage the use of:

4-19 (1) negotiated rulemaking procedures under Chapter
 4-20 2008, Government Code, for the proposal of board rules; and

4-21 (2) appropriate alternative dispute resolution
 4-22 procedures under Chapter 2009, Government Code, to assist in the
 4-23 resolution of internal and external disputes under the board's
 4-24 jurisdiction.

4-25 (b) The board's procedures relating to alternative dispute
 4-26 resolution must conform, to the extent possible, to any model
 4-27 guidelines issued by the State Office of Administrative Hearings
 4-28 for the use of alternative dispute resolution by state agencies.

4-29 (c) The board shall designate a trained person to:

4-30 (1) coordinate the implementation of the policy
 4-31 adopted under Subsection (a);

4-32 (2) serve as a resource for any training needed to
 4-33 implement the procedures for negotiated rulemaking and alternative
 4-34 dispute resolution; and

4-35 (3) collect data concerning the effectiveness of those
 4-36 procedures, as implemented by the board.

4-37 Sec. 21.0414. TECHNOLOGY POLICY. The board shall implement
 4-38 a policy requiring the board to use appropriate technological
 4-39 solutions to improve the board's ability to perform its functions.
 4-40 The policy must ensure that the public is able to interact with the
 4-41 board on the Internet.

4-42 SECTION 9. Section 21.042, Education Code, is amended to
 4-43 read as follows:

4-44 Sec. 21.042. APPROVAL OF RULES. (a) The State Board for
 4-45 Educator Certification must submit a written copy of each rule it
 4-46 proposes to adopt to the State Board of Education for review.

4-47 (b) By a vote of at least two-thirds of the members present
 4-48 and voting, the [The] State Board of Education may:

4-49 (1) reject a portion of a proposed rule; or

4-50 (2) reject an entire [a] proposed rule [by a vote of at
 4-51 least two-thirds of the members of the board present and voting].

4-52 (c) If the State Board of Education fails to reject a
 4-53 proposal before the 90th day after the date on which it receives the
 4-54 proposal, the proposal takes effect as a rule of the State Board for
 4-55 Educator Certification as provided by Chapter 2001, Government
 4-56 Code.

4-57 (d) Except as provided by Subsection (b)(1), the [The] State
 4-58 Board of Education may not modify a rule proposed by the State Board
 4-59 for Educator Certification.

4-60 SECTION 10. Subchapter B, Chapter 21, Education Code, is
 4-61 amended by adding Section 21.0421 to read as follows:

4-62 Sec. 21.0421. ACCEPTANCE OF GIFTS, DONATIONS, AND GRANTS.
 4-63 (a) The board may solicit and accept for the purposes of this
 4-64 subchapter:

4-65 (1) gifts and donations from any source the board
 4-66 considers appropriate; and

4-67 (2) grants from any source, other than the federal
 4-68 government, the board considers appropriate.

4-69 (b) Not later than December 31 of each year, the board shall

5-1 report to the lieutenant governor and the speaker of the house of
 5-2 representatives:

5-3 (1) the source and amount of each gift, donation, and
 5-4 grant accepted under this section; and

5-5 (2) the source and amount of each gift, donation, or
 5-6 grant offered to but not accepted by the board.

5-7 SECTION 11. Subchapter B, Chapter 21, Education Code, is
 5-8 amended by adding Sections 21.0485 and 21.0521 to read as follows:

5-9 Sec. 21.0485. EXAMINATION RESULTS. (a) Not later than the
 5-10 30th day after the date a person takes a certification examination
 5-11 under this subchapter, the board shall notify the person of the
 5-12 examination results.

5-13 (b) If the examination is graded or reviewed by a testing
 5-14 service:

5-15 (1) the board shall notify the person of the
 5-16 examination results not later than the 14th day after the date the
 5-17 board receives the results from the testing service; and

5-18 (2) if notice of the examination results will be
 5-19 delayed for longer than 90 days after the examination date, the
 5-20 board shall notify the person of the reason for the delay before the
 5-21 90th day.

5-22 (c) The board may require a testing service to notify a
 5-23 person of the results of the person's examination.

5-24 (d) If requested in writing by a person who fails a
 5-25 certification examination administered under this subchapter, the
 5-26 board shall furnish the person with an analysis of the person's
 5-27 performance on the examination.

5-28 Sec. 21.0521. PROVISIONAL CERTIFICATE. (a) After a
 5-29 satisfactory review of an applicant's educator credentials, the
 5-30 board may issue a provisional certificate to an applicant who is
 5-31 currently certified or licensed in good standing as an educator in
 5-32 another jurisdiction, including a foreign country, that has
 5-33 certification or licensing requirements that are substantially
 5-34 equivalent to the requirements of this subchapter but who has not
 5-35 passed an examination determined by the board to be similar to and
 5-36 at least as rigorous as the examination prescribed under Section
 5-37 21.048.

5-38 (b) A provisional certificate issued under this section is
 5-39 valid for not longer than 12 months from the effective date of the
 5-40 provisional certificate.

5-41 (c) The board shall issue a standard certificate under this
 5-42 subchapter to the provisional certificate holder if the person is
 5-43 eligible to be certified under Section 21.052.

5-44 SECTION 12. Subsections (c) and (d), Section 21.055,
 5-45 Education Code, are amended to read as follows:

5-46 (c) Promptly after employing a person under this section, a
 5-47 school district shall send to the board the person's fingerprints
 5-48 and ~~commissioner~~ a written statement identifying the person, the
 5-49 person's qualifications as a teacher, and the subject or class the
 5-50 person will teach. The person may teach the subject or class
 5-51 pending action by the board ~~commissioner~~.

5-52 (d) Not later than the 30th day after the date the board
 5-53 ~~commissioner~~ receives the statement under Subsection (c), the
 5-54 board ~~commissioner~~ may inform the district in writing that the
 5-55 board ~~commissioner~~ finds the person is not qualified to teach.
 5-56 The person may not teach if the board ~~commissioner~~ finds the
 5-57 person is not qualified. If the board ~~commissioner~~ fails to act
 5-58 within the time prescribed by this subsection, the district may
 5-59 issue to the person a school district teaching permit and the person
 5-60 may teach the subject or class identified in the statement.

5-61 SECTION 13. Subsection (d), Section 21.057, Education Code,
 5-62 is amended to read as follows:

5-63 (d) For purposes of this section, "inappropriately
 5-64 certified or uncertified teacher":

5-65 (1) includes:

5-66 (A) an individual serving on an emergency
 5-67 certificate issued under Section 21.041(b)(2); or

5-68 (B) an individual who does not hold any
 5-69 certificate or permit issued under this chapter and is not employed

6-1 as specified by Subdivision (2)(E); and

6-2 (2) does not include an individual:

6-3 (A) who is a certified teacher assigned to teach
6-4 a class or classes outside the individual's [his or her] area of
6-5 certification, as determined by rules proposed by the board in
6-6 specifying the certificate required for each assignment;

6-7 (B) serving on a certificate issued due to a
6-8 hearing impairment under Section 21.048;

6-9 (C) serving on a certificate issued pursuant to
6-10 enrollment in an approved alternative certification program under
6-11 Section 21.049;

6-12 (D) certified by another state or country and
6-13 serving on a certificate issued under Section 21.052 or a
6-14 provisional certificate issued under Section 21.0521;

6-15 (E) serving on a school district teaching permit
6-16 issued under Section 21.055; or

6-17 (F) employed under a waiver granted by the board
6-18 [commissioner] pursuant to Section 21.0572 [7.056].

6-19 SECTION 14. Subchapter B, Chapter 21, Education Code, is
6-20 amended by adding Sections 21.0571 through 21.0575 to read as
6-21 follows:

6-22 Sec. 21.0571. COMPLAINTS. (a) The board shall maintain a
6-23 system to promptly and efficiently act on complaints filed with the
6-24 board. The board shall maintain information about parties to the
6-25 complaint, the subject matter of the complaint, a summary of the
6-26 results of the review or investigation of the complaint, and its
6-27 disposition.

6-28 (b) The board shall make information available describing
6-29 its procedures for complaint investigation and resolution.

6-30 (c) The board shall periodically notify the complaint
6-31 parties of the status of the complaint until final disposition.

6-32 Sec. 21.0572. WAIVER OF CERTIFICATION REQUIREMENT. A
6-33 school district may apply to the board for a waiver of a requirement
6-34 under this subchapter that prohibits a teacher from teaching
6-35 outside the teacher's area of certification.

6-36 Sec. 21.0573. EXPIRATION OF CERTIFICATES. The board by
6-37 rule may adopt a system under which certificates expire on various
6-38 dates during the year. For the year in which the certificate
6-39 expiration date is changed, the board shall prorate certification
6-40 fees on a monthly basis so that each certificate holder pays only
6-41 that portion of the fee that is allocable to the number of months
6-42 during which the certificate is valid. On renewal of the
6-43 certificate on the new expiration date, the total renewal fee is
6-44 payable.

6-45 Sec. 21.0574. CERTIFICATE RENEWAL. (a) A person who is
6-46 otherwise eligible to renew a certificate may renew an unexpired
6-47 certificate by paying the required renewal fee to the board before
6-48 the expiration date of the certificate. A person whose certificate
6-49 has expired may not engage in activities that require a certificate
6-50 until the certificate has been renewed.

6-51 (b) A person whose certificate has been expired for 90 days
6-52 or less may renew the certificate by paying to the board a renewal
6-53 fee that is equal to one and one-half times the normally required
6-54 renewal fee.

6-55 (c) A person whose certificate has been expired for more
6-56 than 90 days but less than one year may renew the certificate by
6-57 paying to the board a renewal fee that is equal to two times the
6-58 normally required renewal fee.

6-59 (d) A person whose certificate has been expired for one year
6-60 or more may not renew the certificate. The person may obtain a new
6-61 certificate by complying with the requirements and procedures,
6-62 including the examination requirements, for obtaining an original
6-63 certificate.

6-64 (e) A person who held a certificate in this state, moved to
6-65 another state, and currently holds a certificate and has been in
6-66 practice in the other state for the two years preceding the date of
6-67 application may obtain a new certificate without reexamination.
6-68 The person must pay to the board a fee that is equal to two times the
6-69 normally required renewal fee for the certificate.

7-1 (f) Not later than the 30th day before the date a person's
 7-2 certificate is scheduled to expire, the board shall send written
 7-3 notice of the impending expiration to the person at the person's
 7-4 last known address according to the records of the board.

7-5 Sec. 21.0575. REVOCATION, MODIFICATION, OR SUSPENSION OF
 7-6 CERTIFICATE GENERALLY. (a) The board shall revoke, suspend, or
 7-7 refuse to renew a certificate or reprimand a certificate holder for
 7-8 a violation of this subchapter or a rule of the board.

7-9 (b) The board may place on probation a person whose
 7-10 certificate has been suspended. If a certificate suspension is
 7-11 probated, the board may require the person:

7-12 (1) to report regularly to the board on matters that
 7-13 are the basis of the probation;

7-14 (2) to limit activities to the areas prescribed by the
 7-15 board; or

7-16 (3) to continue or review professional education until
 7-17 the person attains a degree of skill satisfactory to the board in
 7-18 those areas that are the basis of the probation.

7-19 SECTION 15. Subsection (b), Section 21.058, Education Code,
 7-20 is amended to read as follows:

7-21 (b) Notwithstanding Section 21.041(b)(8) [~~21.041(b)(7)~~],
 7-22 not later than the fifth day after the date the board receives
 7-23 notice under Article 42.018, Code of Criminal Procedure, of the
 7-24 conviction of a person who holds a certificate under this
 7-25 subchapter, the board shall:

7-26 (1) revoke the certificate held by the person; and

7-27 (2) provide to the person and to any school district or
 7-28 open-enrollment charter school employing the person at the time of
 7-29 revocation written notice of:

7-30 (A) the revocation; and

7-31 (B) the basis for the revocation.

7-32 SECTION 16. Subsection (b), Section 22.0512, Education
 7-33 Code, is amended to read as follows:

7-34 (b) In this section, "disciplinary proceeding" means:

7-35 (1) an action brought by the school district employing
 7-36 a professional employee of a school district to discharge or
 7-37 suspend the employee or terminate or not renew the employee's term
 7-38 contract; or

7-39 (2) an action brought by the State Board for Educator
 7-40 Certification to enforce the educator's code of ethics adopted
 7-41 under Section 21.041(b)(9) [~~21.041(b)(8)~~].

7-42 SECTION 17. Section 22.082, Education Code, is amended to
 7-43 read as follows:

7-44 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
 7-45 BOARD FOR EDUCATOR CERTIFICATION. The State Board for Educator
 7-46 Certification shall obtain from any law enforcement or criminal
 7-47 justice agency all state and national criminal history record
 7-48 information that relates to an applicant for or holder of a
 7-49 certificate or permit issued under Subchapter B, Chapter 21. The
 7-50 board shall require an applicant or holder to pay any costs related
 7-51 to obtaining criminal history information under this section.

7-52 SECTION 18. Subchapter C, Chapter 22, Education Code, is
 7-53 amended by adding Section 22.0821 to read as follows:

7-54 Sec. 22.0821. INITIATION OF CRIMINAL HISTORY CHECK BY
 7-55 CERTAIN STUDENTS. The State Board for Educator Certification may
 7-56 allow a person enrolled in an educator preparation program or an
 7-57 alternative certification program to, before the person completes
 7-58 the program or submits an application for certification, submit
 7-59 fingerprints in accordance with Section 21.0401 and request that
 7-60 the board begin to obtain criminal history information relating to
 7-61 the person as required by Section 22.082.

7-62 SECTION 19. Section 411.090, Government Code, is amended to
 7-63 read as follows:

7-64 Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
 7-65 AND FINGERPRINTS: STATE BOARD FOR EDUCATOR CERTIFICATION. (a) The
 7-66 State Board for Educator Certification is entitled to obtain from
 7-67 the department any criminal history record information maintained
 7-68 by the department about a person who has applied or intends to apply
 7-69 [to the board] for a certificate or permit under Subchapter B,

8-1 Chapter 21, Education Code.

8-2 (b) Criminal history record information obtained by the
8-3 board under Subsection (a):

8-4 (1) may be used for any purpose related to the
8-5 issuance, denial, suspension, or cancellation of a certificate or
8-6 permit under Subchapter B, Chapter 21, Education Code [issued by
8-7 the board]; and

8-8 (2) may not be released to any person except on court
8-9 order or with the consent of the applicant for a certificate or
8-10 permit [and

8-11 ~~[(3) shall be destroyed by the board after the~~
8-12 ~~information is used for the authorized purposes].~~

8-13 (c) The State Board for Educator Certification may keep on
8-14 file with the department all fingerprints obtained by the board
8-15 under Section 21.0401, Education Code. The department shall notify
8-16 the board of the arrest of any educator who has fingerprints on file
8-17 with the department.

8-18 (d) In this section, "educator" has the meaning assigned by
8-19 Section 5.001, Education Code.

8-20 SECTION 20. Subsection (c), Section 21.035, Education Code,
8-21 is repealed.

8-22 SECTION 21. (a) Not later than January 1, 2006, the State
8-23 Board for Educator Certification shall propose rules governing the
8-24 certification of educational diagnosticians. Subsection (a),
8-25 Section 21.003, Education Code, as amended by this Act, applies
8-26 only to the employment of an educational diagnostician by a school
8-27 district on or after September 1, 2006.

8-28 (b) Sections 21.0331 and 21.0332, Education Code, as added
8-29 by this Act, do not affect the entitlement of a person serving as a
8-30 member of the State Board for Educator Certification immediately
8-31 before September 1, 2005, to continue to serve and function as a
8-32 member of the board for the remainder of the person's term.
8-33 Sections 21.0331 and 21.0332, Education Code, as added by this Act,
8-34 apply only to a person appointed to the State Board for Educator
8-35 Certification on or after September 1, 2005.

8-36 (c) Section 21.0485, Education Code, as added by this Act,
8-37 applies only to an examination administered under Subchapter B,
8-38 Chapter 21, Education Code, on or after September 1, 2005.

8-39 (d) Section 21.0571, Education Code, as added by this Act,
8-40 applies only to a complaint filed with the State Board for Educator
8-41 Certification on or after September 1, 2005, regardless of whether
8-42 the conduct or act that is the subject of the complaint occurred or
8-43 was committed before, on, or after that date.

8-44 (e) Section 21.0574, Education Code, as added by this Act,
8-45 applies to fees for renewal of a certificate under Subchapter B,
8-46 Chapter 21, Education Code, that expires on or after September 1,
8-47 2005. Fees for renewal of a certificate that expired before that
8-48 date are governed by the law in effect on the date the certificate
8-49 expired, and the former law is continued in effect for that purpose.

8-50 SECTION 22. This Act takes effect September 1, 2005.

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