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S.B. No. 9

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the dissemination of criminal history record
3 information and child abuse investigation reports for certain
4 purposes, including the certification and employment of educators
5 and other public school employees who engage in certain misconduct.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter B, Chapter 8, Education Code, is
8 amended by adding Section 8.057 to read as follows:

9 Sec. 8.057. ASSISTANCE WITH CRIMINAL HISTORY RECORD
10 INFORMATION. The agency may require a regional education service
11 center to assist in collecting information needed for a criminal
12 history record information review under Subchapter C, Chapter 22.

13 SECTION 2. Subchapter D, Chapter 12, Education Code, is
14 amended by adding Section 12.1059 to read as follows:

15 Sec. 12.1059. AGENCY APPROVAL REQUIRED FOR CERTAIN
16 EMPLOYEES. A person may not be employed by or serve as a teacher,
17 librarian, educational aide, administrator, or counselor for an
18 open-enrollment charter school unless the person has been approved
19 by the agency following a review of the person's national criminal
20 history record information as provided by Section 22.0832.

21 SECTION 3. Subchapter A, Chapter 21, Education Code, is
22 amended by adding Section 21.007 to read as follows:

23 Sec. 21.007. NOTICE ON CERTIFICATION RECORD OF ALLEGED
24 MISCONDUCT. (a) In this section, "board" means the State Board

1 for Educator Certification.

2 (b) The board shall adopt a procedure for placing a notice
3 of alleged misconduct on an educator's public certification
4 records. The procedure adopted by the board must provide for
5 immediate placement of a notice of alleged misconduct on an
6 educator's public certification records if the alleged misconduct
7 presents a risk to the health, safety, or welfare of a student or
8 minor as determined by the board.

9 (c) The board must notify an educator in writing when
10 placing a notice of an alleged incident of misconduct on the public
11 certification records of the educator.

12 (d) The board must provide an opportunity for an educator to
13 show cause why the notice should not be placed on the educator's
14 public certification records. The board shall propose rules
15 establishing the length of time that a notice may remain on the
16 educator's public certification records before the board must:

17 (1) initiate a proceeding to impose a sanction on the
18 educator on the basis of the alleged misconduct; or

19 (2) remove the notice from the educator's public
20 certification records.

21 (e) If it is determined that the educator has not engaged in
22 the alleged incident of misconduct, the board shall immediately
23 remove the notice from the educator's public certification records.

24 (f) The board shall propose rules necessary to administer
25 this section.

26 SECTION 4. Subsections (a) and (b), Section 21.058,
27 Education Code, are amended to read as follows:

1 (a) This section applies only:

2 (1) to conviction or deferred adjudication of a felony
3 offense under Title 5, Penal Code, or an offense on conviction of
4 which a defendant is required to register as a sex offender under
5 Chapter 62, Code of Criminal Procedure; and

6 (2) if the victim of the offense is under 18 years of
7 age.

8 (b) Notwithstanding Section 21.041(b)(7), not later than
9 the fifth day after the date the board receives notice under Article
10 42.018, Code of Criminal Procedure, of the conviction or deferred
11 adjudication of a person who holds a certificate under this
12 subchapter, the board shall:

13 (1) revoke the certificate held by the person; and

14 (2) provide to the person and to any school district or
15 open-enrollment charter school employing the person at the time of
16 revocation written notice of:

17 (A) the revocation; and

18 (B) the basis for the revocation.

19 SECTION 5. Subchapter B, Chapter 21, Education Code, is
20 amended by adding Section 21.060 to read as follows:

21 Sec. 21.060. ELIGIBILITY OF PERSONS RECEIVING DEFERRED
22 ADJUDICATION FOR OR CONVICTED OF CERTAIN OFFENSES. The board may
23 suspend or revoke the certificate or permit held by a person under
24 this subchapter, impose other sanctions against the person, or
25 refuse to issue a certificate or permit to a person under this
26 subchapter if the person has received deferred adjudication for or
27 has been convicted of a felony or misdemeanor offense relating to

1 the duties and responsibilities of the education profession,
2 including:

3 (1) an offense involving moral turpitude;

4 (2) an offense involving a form of sexual or physical
5 abuse of a minor or student or other illegal conduct in which the
6 victim is a minor or student;

7 (3) a felony offense involving the possession,
8 transfer, sale, or distribution of or conspiracy to possess,
9 transfer, sell, or distribute a controlled substance, as defined by
10 Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et
11 seq.;

12 (4) an offense involving the illegal transfer,
13 appropriation, or use of school district funds or other district
14 property; or

15 (5) an offense involving an attempt by fraudulent or
16 unauthorized means to obtain or alter a professional certificate or
17 license issued under this subchapter.

18 SECTION 6. Sections 22.081 and 22.082, Education Code, are
19 amended to read as follows:

20 Sec. 22.081. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

21 (1) "Department" means the Department of Public
22 Safety.

23 (2) "National criminal history record information"
24 means criminal history record information obtained from the
25 department under Subchapter F, Chapter 411, Government Code, and
26 from the Federal Bureau of Investigation under Section 411.087,
27 Government Code.

1 (3) "Private~~[, "private]~~ school" means a school that:

2 (A) ~~[(1)]~~ offers a course of instruction for
3 students in one or more grades from prekindergarten through grade
4 12; and

5 (B) ~~[(2)]~~ is not operated by a governmental
6 entity.

7 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
8 BOARD FOR EDUCATOR CERTIFICATION. The State Board for Educator
9 Certification shall subscribe to the criminal history
10 clearinghouse as provided by Section 411.0845, Government Code, and
11 may obtain from any law enforcement or criminal justice agency all
12 criminal history record information and all records contained in
13 any closed criminal investigation file that relate ~~[relates]~~ to a
14 specific ~~[an]~~ applicant for or holder of a certificate issued under
15 Subchapter B, Chapter 21.

16 SECTION 7. The heading to Section 22.083, Education Code,
17 is amended to read as follows:

18 Sec. 22.083. ACCESS TO CRIMINAL HISTORY RECORDS OF
19 EMPLOYEES BY LOCAL AND REGIONAL EDUCATION AUTHORITIES.

20 SECTION 8. Section 22.083, Education Code, is amended by
21 amending Subsections (a) and (b) and adding Subsection (a-1) to
22 read as follows:

23 (a) A school district, open-enrollment charter school,
24 ~~[private school, regional education service center,~~ or shared
25 services arrangement shall ~~[may]~~ obtain from the department and may
26 obtain from any other law enforcement or criminal justice agency
27 all criminal history record information that relates to a person

1 who is not subject to a national criminal history record
2 information review under this subchapter and who is an employee of:

3 (1) [~~whom~~] the district or [~~7~~] school [~~7, service center,~~
4 ~~or shared services arrangement intends to employ in any capacity~~];
5 or

6 (2) a shared services arrangement, if the employee's
7 duties are performed on school property or at another location
8 where students are regularly present [~~who has indicated, in~~
9 ~~writing, an intention to serve as a volunteer with the district,~~
10 ~~school, service center, or shared services arrangement~~].

11 (a-1) A shared services arrangement may obtain from any law
12 enforcement or criminal justice agency all criminal history record
13 information that relates to a person who is not subject to
14 Subsection (a) and whom the shared services arrangement intends to
15 employ in any capacity.

16 (b) A private school or regional education service center
17 may [~~An open-enrollment charter school shall~~] obtain from any law
18 enforcement or criminal justice agency all criminal history record
19 information that relates to:

20 (1) a person whom the school or service center intends
21 to employ in any capacity; or

22 (2) an employee of or applicant for employment by a
23 person that contracts with the school or service center to provide
24 services, if:

25 (A) the employee or applicant has or will have
26 continuing duties related to the contracted services; and

27 (B) the employee or applicant has or will have

1 direct contact with students [~~a person who has indicated, in~~
2 ~~writing, an intention to serve as a volunteer with the school~~].

3 SECTION 9. Subchapter C, Chapter 22, Education Code, is
4 amended by adding Sections 22.0831 through 22.0837 to read as
5 follows:

6 Sec. 22.0831. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
7 REVIEW OF CERTIFIED EDUCATORS. (a) In this section, "board" means
8 the State Board for Educator Certification.

9 (b) This section applies to a person who is an applicant for
10 or holder of a certificate under Subchapter B, Chapter 21, and who
11 is employed by or is an applicant for employment by a school
12 district, open-enrollment charter school, or shared services
13 arrangement.

14 (c) The board shall review the national criminal history
15 record information of a person who has not previously submitted
16 fingerprints to the department or been subject to a national
17 criminal history record information review.

18 (d) The board shall place an educator's certificate on
19 inactive status for failure to comply with a deadline for
20 submitting information required under this section.

21 (e) The board may allow a person who is applying for a
22 certificate under Subchapter B, Chapter 21, and who currently
23 resides in another state to submit the person's fingerprints and
24 other required information in a manner that does not impose an undue
25 hardship on the person.

26 (f) The board may propose rules to implement this section,
27 including rules establishing:

1 (1) deadlines for a person to submit fingerprints and
2 photographs in compliance with this section; and

3 (2) sanctions for a person's failure to comply with the
4 requirements of this section, including suspension or revocation of
5 a certificate or refusal to issue a certificate.

6 (g) The board shall establish a schedule for obtaining and
7 reviewing the information a certified educator must provide the
8 board under this section. Not later than September 1, 2010, the
9 board must obtain all national criminal history record information
10 on all certified educators. This subsection expires October 1,
11 2010.

12 Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
13 REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL EMPLOYEES. The
14 agency shall review the national criminal history record
15 information of an employee of an open-enrollment charter school to
16 whom Section 12.1059 applies in the same manner as the State Board
17 for Educator Certification reviews certified educators under
18 Section 22.0831. If the agency determines that, based on
19 information contained in an employee's criminal history record
20 information, the employee would not be eligible for educator
21 certification under Subchapter B, Chapter 21, the agency shall
22 notify the open-enrollment charter school in writing that the
23 person may not be employed by the school or serve in a capacity
24 described by Section 12.1059.

25 Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
26 REVIEW OF NONCERTIFIED EMPLOYEES. (a) This section applies to a
27 person who is not an applicant for or holder of a certificate under

1 Subchapter B, Chapter 21, and who on or after September 1, 2007, is
2 offered employment by:

3 (1) a school district or open-enrollment charter
4 school; or

5 (2) a shared services arrangement, if the employee's
6 or applicant's duties are or will be performed on school property or
7 at another location where students are regularly present.

8 (b) A person to whom this section applies must submit to a
9 national criminal history record information review under this
10 section before being employed or serving in a capacity described by
11 Subsection (a).

12 (c) Before or immediately after employing or securing the
13 services of a person to whom this section applies, a school
14 district, open-enrollment charter school, or shared services
15 arrangement shall send or ensure that the person sends to the
16 department information that is required by the department for
17 obtaining national criminal history record information, which may
18 include fingerprints and photographs.

19 (d) The department shall obtain the person's national
20 criminal history record information and report the results through
21 the criminal history clearinghouse as provided by Section 411.0845,
22 Government Code.

23 (e) Each school district, open-enrollment charter school,
24 and shared services arrangement shall obtain all criminal history
25 record information that relates to a person to whom this section
26 applies through the criminal history clearinghouse as provided by
27 Section 411.0845, Government Code, and shall subscribe to the

1 criminal history record information of the person.

2 (f) The school district, open-enrollment charter school, or
3 shared services arrangement may require a person to pay any fees
4 related to obtaining criminal history record information under this
5 section.

6 (g) A school district, open-enrollment charter school, or
7 shared services arrangement shall provide the agency with the name
8 of a person to whom this section applies. The agency shall obtain
9 all criminal history record information of the person through the
10 criminal history clearinghouse as provided by Section 411.0845,
11 Government Code. The agency shall examine the criminal history
12 record information of the person and notify the district, school,
13 or shared services arrangement if the person may not be hired or
14 must be discharged as provided by Section 22.085.

15 (h) The agency, the State Board for Educator Certification,
16 school districts, open-enrollment charter schools, and shared
17 services arrangements may coordinate as necessary to ensure that
18 criminal history reviews authorized or required under this
19 subchapter are not unnecessarily duplicated.

20 (i) The department in coordination with the commissioner
21 may adopt rules necessary to implement this section.

22 Sec. 22.0834. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
23 REVIEW OF CERTAIN CONTRACT EMPLOYEES. (a) This section applies to
24 a person who is not an applicant for or holder of a certificate
25 under Subchapter B, Chapter 21, and who on or after September 1,
26 2007, is offered employment by an entity that contracts with a
27 school district, open-enrollment charter school, or shared

1 services arrangement to provide services, if:

2 (1) the employee or applicant has or will have
3 continuing duties related to the contracted services; and

4 (2) the employee or applicant has or will have direct
5 contact with students.

6 (b) A person to whom this section applies must submit to a
7 national criminal history record information review under this
8 section before being employed or serving in a capacity described by
9 Subsection (a).

10 (c) Before or immediately after employing or securing the
11 services of a person to whom this section applies, the entity
12 contracting with a school district, open-enrollment charter
13 school, or shared services arrangement shall send or ensure that
14 the person sends to the department information that is required by
15 the department for obtaining national criminal history record
16 information, which may include fingerprints and photographs.

17 (d) The department shall obtain the person's national
18 criminal history record information and report the results through
19 the criminal history clearinghouse as provided by Section 411.0845,
20 Government Code.

21 (e) An entity contracting with a school district,
22 open-enrollment charter school, or shared services arrangement
23 shall obtain all criminal history record information that relates
24 to a person to whom this section applies through the criminal
25 history clearinghouse as provided by Section 411.0845, Government
26 Code.

27 (f) A school district, open-enrollment charter school, or

1 shared services arrangement may obtain the criminal history record
2 information of a person to whom this section applies through the
3 criminal history clearinghouse as provided by Section 411.0845,
4 Government Code.

5 Sec. 22.0835. CRIMINAL HISTORY OF CERTAIN CONTRACT
6 EMPLOYEES. (a) An entity that contracts with a school district,
7 open-enrollment charter school, or shared services arrangement to
8 provide services shall obtain from any law enforcement or criminal
9 justice agency all criminal history record information that relates
10 to an employee of the entity who is not subject to a national
11 criminal history record information review under Section 22.0834
12 if:

13 (1) the employee has continuing duties related to the
14 contracted services; and

15 (2) the employee has direct contact with students.

16 (b) A school district, open-enrollment charter school, or
17 shared services arrangement may obtain from any law enforcement or
18 criminal justice agency all criminal history record information
19 that relates to a person to whom this section applies.

20 Sec. 22.0836. ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT
21 TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION
22 AUTHORITIES. (a) A school district, open-enrollment charter
23 school, or shared services arrangement shall obtain from the
24 department and may obtain from any other law enforcement or
25 criminal justice agency all criminal history record information
26 that relates to:

27 (1) a person participating in an internship consisting

1 of student teaching to receive a teaching certificate; or

2 (2) a volunteer or person who has indicated, in
3 writing, an intention to serve as a volunteer with the district,
4 school, or shared services arrangement.

5 (b) A private school or regional education service center
6 may obtain from any law enforcement or criminal justice agency all
7 criminal history record information that relates to a person who
8 volunteers or has indicated, in writing, an intention to serve as a
9 volunteer with the school or service center.

10 (c) A person to whom Subsection (a) or (b) applies must
11 provide to the school district, open-enrollment charter school,
12 private school, regional education service center, or shared
13 services arrangement a driver's license or another form of
14 identification containing the person's photograph issued by an
15 entity of the United States government.

16 (d) A person to whom Subsection (a) applies may not perform
17 any student teaching or volunteer duties until all requirements
18 under Subsections (a) and (c) have been satisfied.

19 (e) Subsections (a) and (c) do not apply to a person who
20 volunteers or is applying to volunteer with a school district,
21 open-enrollment charter school, or shared services arrangement if
22 the person is the parent, guardian, or grandparent of a child who is
23 enrolled in the district or school for which the person volunteers
24 or is applying to volunteer.

25 (f) A school district, open-enrollment charter school, or
26 shared services arrangement may obtain from any law enforcement or
27 criminal justice agency all criminal history record information

1 that relates to a person to whom Subsection (e) applies.

2 (g) A school district, open-enrollment charter school,
3 private school, regional education service center, or shared
4 services arrangement may require a student teacher, volunteer, or
5 volunteer applicant to pay any costs related to obtaining criminal
6 history record information under this section.

7 Sec. 22.0837. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
8 REVIEW OF SUBSTITUTE TEACHERS. (a) This section applies to a
9 person who is a substitute teacher for a school district,
10 open-enrollment charter school, or shared services arrangement.

11 (b) A person to whom this section applies must submit to a
12 national criminal history record information review under this
13 section.

14 (c) A school district, open-enrollment charter school, or
15 shared services arrangement shall send or ensure that a person to
16 whom this section applies sends to the department information that
17 is required by the department for obtaining national criminal
18 history record information, which may include fingerprints and
19 photographs.

20 (d) The department shall obtain the person's national
21 criminal history record information and report the results through
22 the criminal history clearinghouse as provided by Section 411.0845,
23 Government Code.

24 (e) Each school district, open-enrollment charter school,
25 and shared services arrangement shall obtain all criminal history
26 record information that relates to a person to whom this section
27 applies through the criminal history clearinghouse as provided by

1 Section 411.0845, Government Code.

2 (f) The school district, open-enrollment charter school, or
3 shared services arrangement may require a person to pay any fees
4 related to obtaining criminal history record information under this
5 section.

6 (g) A school district, open-enrollment charter school, or
7 shared services arrangement shall provide the agency with the name
8 of a person to whom this section applies. The agency shall obtain
9 all criminal history record information of the person through the
10 criminal history clearinghouse as provided by Section 411.0845,
11 Government Code. The agency shall examine the criminal history
12 record information and certification records of the person and
13 notify the district, school, or shared services arrangement if the
14 person:

15 (1) may not be hired or must be discharged as provided
16 by Section 22.085; or

17 (2) may not be employed as a substitute teacher
18 because the person's educator certification has been revoked or is
19 suspended.

20 (h) The commissioner may adopt rules to implement this
21 section, including rules establishing deadlines for a school
22 district, open-enrollment charter school, or shared services
23 arrangement to require a person to whom this section applies to
24 submit fingerprints and photographs in compliance with this section
25 and the circumstances under which a person may not continue to be
26 employed as a substitute teacher.

27 (i) The agency shall establish a schedule for obtaining and

1 reviewing the information a school district, open-enrollment
2 charter school, or shared services arrangement and a substitute
3 teacher must provide under this section. Not later than September
4 1, 2010, the agency must obtain all national criminal history
5 record information on all substitute teachers. This subsection
6 expires October 1, 2010.

7 (j) The department in coordination with the commissioner
8 may adopt rules necessary to implement this section.

9 SECTION 10. Section 22.085, Education Code, is amended to
10 read as follows:

11 Sec. 22.085. [~~DISCHARGE OF~~] EMPLOYEES AND APPLICANTS
12 CONVICTED OF CERTAIN OFFENSES. (a) A school district,
13 open-enrollment charter school, or shared services arrangement
14 shall discharge or refuse to hire an employee or applicant for
15 employment if the district, school, or shared services arrangement
16 obtains information through a criminal history record information
17 review that:

18 (1) the employee or applicant has been convicted of or
19 received deferred adjudication for:

20 (A) a felony offense under Title 5, Penal Code;

21 (B) an offense on conviction of which a defendant
22 is required to register as a sex offender under Chapter 62, Code of
23 Criminal Procedure; or

24 (C) an offense under the laws of another state or
25 federal law that is equivalent to an offense under Paragraph (A) or
26 (B); and

27 (2) at the time the offense occurred, the victim of the

1 offense described by Subdivision (1) was under 18 years of age or
2 was enrolled in a public school.

3 (b) A school district, open-enrollment charter school, or
4 shared services arrangement may not allow a person who is an
5 employee of or applicant for employment by an entity that contracts
6 with the district, school, or shared services arrangement to serve
7 at the district or school or for the shared services arrangement if
8 the district, school, or shared services arrangement obtains
9 information described by Subsection (a) through a criminal history
10 record information review concerning the employee or applicant. A
11 school district, open-enrollment charter school, or shared
12 services arrangement must ensure that an entity that the district,
13 school, or shared services arrangement contracts with for services
14 has obtained all criminal history record information as required by
15 Sections 22.0834 and 22.0835.

16 (c) A school district, open-enrollment charter school,
17 private school, regional education service center, or shared
18 services arrangement may discharge an employee if the district or
19 school obtains information of the employee's conviction or deferred
20 adjudication of a felony or of a misdemeanor involving moral
21 turpitude that the employee did not disclose to the State Board for
22 Educator Certification or the district, school, service center, or
23 shared services arrangement. An employee discharged under this
24 section is considered to have been discharged for misconduct for
25 purposes of Section 207.044, Labor Code.

26 (d) The State Board for Educator Certification may impose a
27 sanction on an educator who does not discharge an employee or refuse

1 to hire an applicant if the educator knows or should have known,
2 through a criminal history record information review, that the
3 employee or applicant has been convicted of or received a deferred
4 adjudication for an offense described by Subsection (a).

5 (e) Each school year, the superintendent of a school
6 district or chief operating officer of an open-enrollment charter
7 school shall certify to the commissioner that the district or
8 school has complied with this section.

9 SECTION 11. Subchapter C, Chapter 22, Education Code, is
10 amended by adding Section 22.087 to read as follows:

11 Sec. 22.087. NOTIFICATION TO STATE BOARD FOR EDUCATOR
12 CERTIFICATION. The superintendent of a school district or the
13 director of an open-enrollment charter school, private school,
14 regional education service center, or shared services arrangement
15 shall promptly notify the State Board for Educator Certification in
16 writing if the person obtains or has knowledge of information
17 showing that an applicant for or holder of a certificate issued
18 under Subchapter B, Chapter 21, has a reported criminal history.

19 SECTION 12. Subchapter A, Chapter 38, Education Code, is
20 amended by adding Section 38.022 to read as follows:

21 Sec. 38.022. SCHOOL VISITORS. (a) A school district may
22 require a person who enters a district campus to display the
23 person's driver's license or another form of identification
24 containing the person's photograph issued by a governmental entity.

25 (b) A school district may establish an electronic database
26 for the purpose of storing information concerning visitors to
27 district campuses. Information stored in the electronic database

1 may be used only for the purpose of school district security and may
2 not be sold or otherwise disseminated to a third party for any
3 purpose.

4 (c) A school district may verify whether a visitor to a
5 district campus is a sex offender registered with the computerized
6 central database maintained by the Department of Public Safety as
7 provided by Article 62.005, Code of Criminal Procedure, or any
8 other database accessible by the district.

9 SECTION 13. Section 261.308, Family Code, is amended by
10 adding Subsections (d) and (e) to read as follows:

11 (d) If the department or designated agency determines that
12 the risk of harm to one or more children outside the family of the
13 child who is the subject of the investigation is substantial and
14 immediate, the department or designated agency shall send a copy of
15 the completed report of the investigation to persons who have
16 control over the access to children by the person alleged to have
17 committed the abuse or neglect, including, as appropriate, the
18 Texas Education Agency, the State Board for Educator Certification,
19 the local school board or the school's governing body, the
20 superintendent of the school district, or the school principal or
21 director.

22 (e) On request of the State Board for Educator
23 Certification, the department or designated agency shall send a
24 copy of the completed report of the investigation to the State Board
25 for Educator Certification.

26 SECTION 14. Subsection (b), Section 261.406, Family Code,
27 is amended to read as follows:

1 (b) The department shall send a copy of the completed
2 ~~[written]~~ report of the department's investigation~~[, as~~
3 ~~appropriate,]~~ to the Texas Education Agency, the State Board for
4 Educator Certification ~~[agency responsible for teacher~~
5 ~~certification]~~, the local school board or the school's governing
6 body, the superintendent of the school district, and the school
7 principal or director, unless the principal or director is alleged
8 to have committed the abuse or neglect, for appropriate action. On
9 request, the department shall provide a copy of the report of
10 investigation to the parent, managing conservator, or legal
11 guardian of a child who is the subject of the investigation and to
12 the person alleged to have committed the abuse or neglect. The
13 report of investigation shall be edited to protect the identity of
14 the persons who made the report of abuse or neglect. Other than the
15 persons authorized by the section to receive a copy of the report,
16 Section 261.201(b) applies to the release of the report
17 ~~[confidential information]~~ relating to the investigation of ~~[a~~
18 ~~report of]~~ abuse or neglect under this section and to the identity
19 of the person who made the report of abuse or neglect.

20 SECTION 15. Section 411.042, Government Code, is amended by
21 amending Subsections (b) and (g) and adding Subsection (h) to read
22 as follows:

23 (b) The bureau of identification and records shall:

24 (1) procure and file for record photographs, pictures,
25 descriptions, fingerprints, measurements, and other pertinent
26 information of all persons arrested for or charged with a criminal
27 offense or convicted of a criminal offense, regardless of whether

1 the conviction is probated;

2 (2) collect information concerning the number and
3 nature of offenses reported or known to have been committed in the
4 state and the legal steps taken in connection with the offenses, and
5 other information useful in the study of crime and the
6 administration of justice, including a statistical breakdown of
7 those offenses in which family violence was involved;

8 (3) make ballistic tests of bullets and firearms and
9 chemical analyses of bloodstains, cloth, materials, and other
10 substances for law enforcement officers of the state;

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

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

19 (6) collect information concerning the number and
20 nature of protective orders and all other pertinent information
21 about all persons on active protective orders. Information in the
22 law enforcement information system relating to an active protective
23 order shall include:

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

27 (B) any known identifying number of the person to

1 whom the order is directed, including the person's social security
2 number or driver's license number;

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

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

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

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

16 (G) the date the order expires; and

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

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

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

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

25 (3) reports of criminal history information submitted
26 to the department; ~~and~~

27 (4) active protective orders issued under Chapter 71,

1 Family Code, and reporting procedures that ensure that information
2 relating to the issuance of an active protective order and to the
3 dismissal of an active protective order is reported to the local law
4 enforcement agency at the time of the order's issuance or dismissal
5 and entered by the local law enforcement agency in the state's law
6 enforcement information system; and

7 (5) a system for providing criminal history record
8 information through the criminal history clearinghouse under
9 Section 411.0845.

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

12 SECTION 16. Subsection (i), Section 411.081, Government
13 Code, is amended to read as follows:

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

17 (1) the State Board for Educator Certification;

18 (2) a school district, charter school, private school,
19 regional education service center, commercial transportation
20 company, or education shared service arrangement;

21 (3) the Texas Medical [~~State~~] Board [~~of Medical~~
22 ~~Examiners~~];

23 (4) the Texas School for the Blind and Visually
24 Impaired;

25 (5) the Board of Law Examiners;

26 (6) the State Bar of Texas;

27 (7) a district court regarding a petition for name

- 1 change under Subchapter B, Chapter 45, Family Code;
- 2 (8) the Texas School for the Deaf;
- 3 (9) the Department of Family and Protective Services;
- 4 (10) the Texas Youth Commission;
- 5 (11) the Department of Assistive and Rehabilitative
- 6 Services;
- 7 (12) the Department of State Health Services, a local
- 8 mental health service, a local mental retardation authority, or a
- 9 community center providing services to persons with mental illness
- 10 or retardation;
- 11 (13) the Texas Private Security Board;
- 12 (14) a municipal or volunteer fire department;
- 13 (15) the Board of Nurse Examiners;
- 14 (16) a safe house providing shelter to children in
- 15 harmful situations;
- 16 (17) a public or nonprofit hospital or hospital
- 17 district;
- 18 (18) the Texas Juvenile Probation Commission;
- 19 (19) the securities commissioner, the banking
- 20 commissioner, the savings and loan commissioner, or the credit
- 21 union commissioner;
- 22 (20) the Texas State Board of Public Accountancy;
- 23 (21) the Texas Department of Licensing and Regulation;
- 24 (22) the Health and Human Services Commission; ~~and~~
- 25 (23) the Department of Aging and Disability Services;
- 26 (24) the Texas Education Agency; and
- 27 (25) an entity that contracts with a school district,

1 open-enrollment charter school, or education shared services
2 arrangement.

3 SECTION 17. Subsections (b) and (c), Section 411.083,
4 Government Code, are amended to read as follows:

5 (b) The department shall grant access to criminal history
6 record information to:

7 (1) criminal justice agencies;

8 (2) noncriminal justice agencies authorized by
9 federal statute or executive order or by state statute to receive
10 criminal history record information;

11 (3) the person who is the subject of the criminal
12 history record information;

13 (4) a person working on a research or statistical
14 project that:

15 (A) is funded in whole or in part by state funds;
16 or

17 (B) meets the requirements of Part 22, Title 28,
18 Code of Federal Regulations, and is approved by the department;

19 (5) an individual or an agency that has a specific
20 agreement with a criminal justice agency to provide services
21 required for the administration of criminal justice under that
22 agreement, if the agreement:

23 (A) specifically authorizes access to
24 information;

25 (B) limits the use of information to the purposes
26 for which it is given;

27 (C) ensures the security and confidentiality of

1 the information; and

2 (D) provides for sanctions if a requirement
3 imposed under Paragraph (A), (B), or (C) is violated;

4 (6) an individual or an agency that has a specific
5 agreement with a noncriminal justice agency to provide services
6 related to the use of criminal history record information
7 disseminated under this subchapter, if the agreement:

8 (A) specifically authorizes access to
9 information;

10 (B) limits the use of information to the purposes
11 for which it is given;

12 (C) ensures the security and confidentiality of
13 the information; and

14 (D) provides for sanctions if a requirement
15 imposed under Paragraph (A), (B), or (C) is violated;

16 (7) a county or district clerk's office; and

17 (8) [~~(7)~~] the Office of Court Administration of the
18 Texas Judicial System.

19 (c) The department may disseminate criminal history record
20 information under Subsection (b)(1) only for a criminal justice
21 purpose. The department may disseminate criminal history record
22 information under Subsection (b)(2) only for a purpose specified in
23 the statute or order. The department may disseminate criminal
24 history record information under Subsection (b)(4), (5), or (6) [~~or~~
25 ~~(b)(5)~~] only for a purpose approved by the department and only under
26 rules adopted by the department. The department may disseminate
27 criminal history record information under Subsection (b)(7)

1 ~~[(b)(6)]~~ only to the extent necessary for a county or district clerk
2 to perform a duty imposed by law to collect and report criminal
3 court disposition information. Criminal history record
4 information disseminated to a clerk under Subsection (b)(7)
5 ~~[(b)(6)]~~ may be used by the clerk only to ensure that information
6 reported by the clerk to the department is accurate and complete.
7 The dissemination of information to a clerk under Subsection (b)(7)
8 ~~[(b)(6)]~~ does not affect the authority of the clerk to disclose or
9 use information submitted by the clerk to the department. The
10 department may disseminate criminal history record information
11 under Subsection (b)(8) ~~[(b)(7)]~~ only to the extent necessary for
12 the office of court administration to perform a duty imposed by law
13 to compile court statistics or prepare reports. The office of court
14 administration may disclose criminal history record information
15 obtained from the department under Subsection (b)(8) ~~[(b)(7)]~~ in a
16 statistic compiled by the office or a report prepared by the office,
17 but only in a manner that does not identify the person who is the
18 subject of the information.

19 SECTION 18. Subchapter F, Chapter 411, Government Code, is
20 amended by adding Section 411.0845 to read as follows:

21 Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The
22 department shall establish an electronic clearinghouse and
23 subscription service to provide criminal history record
24 information to a person entitled to receive criminal history record
25 information under this subchapter.

26 (b) On receiving a request for criminal history record
27 information from a person entitled to such information under this

1 subchapter, the department shall provide through the electronic
2 clearinghouse:

3 (1) the criminal history record information reported
4 to the department or the Federal Bureau of Investigation relating
5 to the individual who is the subject of the request; or

6 (2) a statement that the individual who is the subject
7 of the request does not have any criminal history record
8 information reported to the department or the Federal Bureau of
9 Investigation.

10 (c) If the department provides information received from
11 the Federal Bureau of Investigation, the department must include
12 with the information the date the department received information
13 from the Federal Bureau of Investigation.

14 (d) The department shall ensure that the information
15 described by Subsection (b) is provided only to a person otherwise
16 entitled to obtain criminal history record information under this
17 subchapter. Information collected under this section is
18 confidential and is not subject to disclosure under Chapter 552.

19 (e) A person entitled to receive criminal history record
20 information under this section must provide the department with the
21 following information regarding the person who is the subject of
22 the criminal history record information requested:

23 (1) the person's full name, date of birth, sex, Texas
24 driver's license number or personal identification certificate
25 number, and social security number;

26 (2) a recent electronic digital image photograph of
27 the person and a complete set of the person's fingerprints as

1 required by the department; and

2 (3) any other information required by the department.

3 (f) The department shall maintain an Internet website for
4 the administration of the clearinghouse and an electronic
5 subscription service to provide notice of updates to a person
6 entitled to receive criminal history record information under this
7 subchapter. The department shall update clearinghouse records as a
8 result of any change in information discovered by the department.
9 Within 48 hours after the department becomes aware that a person's
10 criminal history record information in a clearinghouse record has
11 changed, the department shall provide notice of the updated
12 information to each subscriber to that specific record.

13 (g) A person who is the subject of the criminal history
14 record information requested under this section must consent to the
15 release of the information.

16 (h) The release under this section of any criminal history
17 record information maintained by the Federal Bureau of
18 Investigation is subject to federal law and regulations, federal
19 executive orders, and federal policy.

20 (i) The department may charge a fee for subscription
21 services to cover the costs of administering this section.

22 (j) A governmental agency may coordinate with the
23 department regarding the collection of a fee for the criminal
24 history record information through the fingerprinting fee
25 collection process.

26 SECTION 19. Section 411.090, Government Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) The department shall notify the State Board for Educator
2 Certification of the arrest of any educator, as defined by Section
3 5.001, Education Code, who has fingerprints on file with the
4 department.

5 SECTION 20. Subchapter F, Chapter 411, Government Code, is
6 amended by adding Section 411.0901 to read as follows:

7 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
8 INFORMATION: TEXAS EDUCATION AGENCY. The Texas Education Agency
9 is entitled to obtain criminal history record information
10 maintained by the department about a person who:

11 (1) is employed or is an applicant for employment by a
12 school district or open-enrollment charter school;

13 (2) is employed or is an applicant for employment by a
14 shared services arrangement, if the employee's or applicant's
15 duties are or will be performed on school property or at another
16 location where students are regularly present; or

17 (3) is employed or is an applicant for employment by an
18 entity that contracts with a school district, open-enrollment
19 charter school, or shared services arrangement if:

20 (A) the employee or applicant has or will have
21 continuing duties relating to the contracted services; and

22 (B) the employee or applicant has or will have
23 direct contact with students.

24 SECTION 21. The heading to Section 411.097, Government
25 Code, is amended to read as follows:

26 Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD
27 INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES [~~SCHOOL~~

1 ~~DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION~~
2 ~~SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION~~
3 ~~SHARED SERVICES ARRANGEMENT]~~.

4 SECTION 22. Subsections (a) and (b), Section 411.097,
5 Government Code, are amended to read as follows:

6 (a) A school district, charter school, private school,
7 regional education service center, commercial transportation
8 company, or education shared services arrangement, or an entity
9 that contracts to provide services to a school district, charter
10 school, or shared services arrangement, is entitled to obtain from
11 the department criminal history record information maintained by
12 the department that the district, school, service center, [~~or~~]
13 shared services arrangement, or entity is required or authorized to
14 obtain under Subchapter C, Chapter 22, Education Code, that relates
15 to a person who is:

16 (1) an applicant for employment by the district,
17 school, service center, or shared services arrangement; [~~or~~]

18 (2) an employee of or an applicant for employment with
19 a public or commercial transportation company that contracts with
20 the district, school, service center, or shared services
21 arrangement to provide transportation services if the employee
22 drives or the applicant will drive a bus in which students are
23 transported or is employed or is seeking employment as a bus monitor
24 or bus aide on a bus in which students are transported; or

25 (3) an employee of or applicant for employment by an
26 entity that contracts to provide services to a school district,
27 charter school, or shared services arrangement as provided by

1 Section 22.0834 or 22.0835, Education Code.

2 (b) A school district, charter school, private school,
3 regional education service center, or education shared services
4 arrangement is entitled to obtain from the department [~~, no more~~
5 ~~than twice each year,~~] criminal history record information
6 maintained by the department that the district, school, service
7 center, or shared services arrangement is required or authorized to
8 obtain under Subchapter C, Chapter 22, Education Code, that relates
9 to a person who is a volunteer, student teacher, or employee of the
10 district, school, service center, or shared services arrangement.

11 SECTION 23. Section 730.007, Transportation Code, is
12 amended by adding Subsection (f) to read as follows:

13 (f) Personal information obtained by an agency under
14 Section 411.0845, Government Code, in connection with a motor
15 vehicle record may be disclosed as provided by that section.

16 SECTION 24. Subsections (c) and (d), Section 22.083,
17 Education Code, are repealed.

18 SECTION 25. Section 21.007, Education Code, as added by
19 this Act, applies only to a report for misconduct filed with the
20 State Board for Educator Certification on or after September 1,
21 2007, regardless of whether the conduct or act that is the subject
22 of the report occurred or was committed before, on, or after that
23 date.

24 SECTION 26. The change in law made by Section 21.058,
25 Education Code, as amended by this Act, and Subsection (c), Section
26 22.085, Education Code, as amended by this Act, applies only to an
27 offense for which a person receives deferred adjudication on or

1 after the effective date of this Act. An offense for which a person
2 receives deferred adjudication before the effective date of this
3 Act is governed by the law in effect at the time the person received
4 deferred adjudication, and the former law is continued in effect
5 for that purpose.

6 SECTION 27. As soon as practicable after the effective date
7 of this Act, the State Board for Educator Certification, the Texas
8 Education Agency, a school district, an open-enrollment charter
9 school, or a shared services arrangement shall, in the manner
10 prescribed by Sections 22.0831, 22.0832, 22.0833, and 22.0837,
11 Education Code, as added by this Act, begin obtaining national
12 criminal history record information for employees and applicants
13 for employment who are subject to a national criminal history
14 record information review under those sections.

15 SECTION 28. As soon as practicable after the effective date
16 of this Act, an entity that contracts with a school district,
17 open-enrollment charter school, or shared services arrangement
18 shall, in the manner prescribed by Sections 22.0834 and 22.0835,
19 Education Code, as added by this Act, begin obtaining national
20 criminal history record information for employees and applicants
21 for employment who are subject to a national criminal history
22 record information review under those sections.

23 SECTION 29. Beginning September 1, 2007, a school district,
24 open-enrollment charter school, or shared services arrangement
25 shall obtain, in compliance with Section 22.0836, Education Code,
26 as added by this Act, criminal history record information relating
27 to each person who is a student teacher or volunteer or has

1 indicated in writing an intention to serve as a volunteer with the
2 district, school, or shared services arrangement in any capacity.

3 SECTION 30. As soon as practicable after the effective date
4 of this Act, the Department of Public Safety of the State of Texas
5 shall establish a criminal history clearinghouse as required by
6 Section 411.0845, Government Code, as added by this Act.

7 SECTION 31. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2007.