AN ACT

relating to the disclosure or dissemination of criminal history record information, child abuse investigation reports, and school district audit working papers for certain purposes, including the certification and employment of educators and other public school employees who engage in certain misconduct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Section 21.048, Education Code, is amended by
adding Subsection (c-1) to read as follows:

(c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under Chapter 552, Government Code, unless:

(1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or

(2) the educator has failed the examination more than five times.

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

Sec. 21.060. ELIGIBILITY OF PERSONS CONVICTED OF CERTAIN OFFENSES. The board may suspend or revoke the certificate or permit held by a person under this subchapter, impose other sanctions against the person, or refuse to issue a certificate or permit to a person under this subchapter if the person has been convicted of a felony or misdemeanor offense relating to the duties and responsibilities of the education profession, including:

(1) an offense involving moral turpitude;

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

(3) a felony offense involving the possession, transfer, sale, or distribution of or conspiracy to possess, transfer, sell, or distribute a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
(4) an offense involving the illegal transfer, appropriation, or use of school district funds or other district property; or

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

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

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

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

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

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

(A) [411] offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(B) [42] is not operated by a governmental entity.

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

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

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

SECTION 8. Section 22.083, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A school district, open-enrollment charter school, [private school, regional education service center,] or shared services arrangement shall [may] obtain [from any law enforcement or criminal justice agency all] criminal history record information that relates to a person who is not subject to a national criminal history record information review under this subchapter and who is an employee of:

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

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

(a-1) A school district, open-enrollment charter school, or
shared services arrangement may obtain the criminal history record information from:

(1) the department;

(2) a law enforcement or criminal justice agency; or

(3) a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.).

(a-2) A shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who is not subject to Subsection (a) and whom the shared services arrangement intends to employ in any capacity.

(b) A private school or regional education service center may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

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

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

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

(B) the employee or applicant has or will have direct contact with students [a person who has indicated, in writing, an intention to serve as a volunteer with the school].

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

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

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

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

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

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

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

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

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

(g) The board by rule shall establish a schedule for
obtaining and reviewing the information a certified educator must
provide the board under this section. Not later than September 1,
2011, the board must obtain all national criminal history record
information on all certified educators. This subsection expires
October 1, 2011.

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

(b) An open-enrollment charter school must provide the
agency with any information requested by the agency to enable the
agency to complete a review under Subsection (a). Failure of an
open-enrollment charter school to provide information under this
subsection is a material violation of the school's charter.

Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
REVIEW OF NONCERTIFIED EMPLOYEES. (a) This section applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by:

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

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

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

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

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

(e) Each school district, open-enrollment charter school, and shared services arrangement shall obtain all criminal history record information that relates to a person to whom this section
Section 411.0845, Government Code, and shall subscribe to the
criminal history record information of the person.

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

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

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

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

Sec. 22.0834. CRIMINAL HISTORY RECORD INFORMATION REVIEW
OF CERTAIN CONTRACT EMPLOYEES. (a) This subsection applies to a
person who is not an applicant for or holder of a certificate under
Subchapter B, Chapter 21, and who on or after January 1, 2008, is
offered employment by an entity that contracts with a school
district, open-enrollment charter school, or shared services
arrangement to provide services, if:

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

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

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

(c) Before or immediately after employing or securing the
services of a person to whom Subsection (a) applies, the entity
contracting with a school district, open-enrollment charter
school, or shared services arrangement shall send or ensure that
the person sends to the department information that is required by
the department for obtaining national criminal history record
information, which may include fingerprints and photographs. The
department shall obtain the person's national criminal history
record information and report the results through the criminal
history clearinghouse as provided by Section 411.0845, Government
Code.

(d) An entity contracting with a school district,
open-enrollment charter school, or shared services arrangement
shall obtain all criminal history record information that relates
to a person to whom Subsection (a) applies through the criminal
history clearinghouse as provided by Section 411.0845, Government
Code. The entity shall certify to the school district that the entity has received all criminal history record information relating to a person to whom Subsection (a) applies.

(e) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f) In the event of an emergency, a school district may allow a person to whom Subsection (a) or (g) applies to enter school district property if the person is accompanied by a district employee. A school district may adopt rules regarding an emergency situation under this subsection.

(g) An entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Subsection (b) if:

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

(2) the employee has direct contact with students.

(h) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or
criminal justice agency all criminal history record information that relates to a person to whom Subsection (g) applies.

(i) An entity shall certify to a school district that it has received all criminal history record information required by Subsection (g).

(j) The commissioner may adopt rules as necessary to implement this section.

Sec. 22.0835. ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION AUTHORITIES. (a) A school district, open-enrollment charter school, or shared services arrangement shall obtain from the department and may obtain from any other law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to:

(1) a person participating in an internship consisting of student teaching to receive a teaching certificate; or

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

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

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

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

(e) Subsections (a) and (c) do not apply to a person who volunteers or is applying to volunteer with a school district, open-enrollment charter school, or shared services arrangement if the person:

(1) is the parent, guardian, or grandparent of a child who is enrolled in the district or school for which the person volunteers or is applying to volunteer;

(2) will be accompanied by a school district employee while on a school campus; or

(3) is volunteering for a single event on the school campus.

(f) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (e) applies.

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

Sec. 22.0836. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
REVIEW OF SUBSTITUTE TEACHERS. (a) This section applies to a
person who is a substitute teacher for a school district,
open-enrollment charter school, or shared services arrangement.

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

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

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

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

(f) The school district, open-enrollment charter school, or
shared services arrangement may require a person to pay any fees
related to obtaining criminal history record information under this
section.
(g) A school district, open-enrollment charter school, or shared services arrangement shall provide the agency with the name of a person to whom this section applies. The agency shall obtain all criminal history record information of the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The agency shall examine the criminal history record information and certification records of the person and notify the district, school, or shared services arrangement if the person:

(1) may not be hired or must be discharged as provided by Section 22.085; or
(2) may not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

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

(i) The agency shall establish a schedule for obtaining and reviewing the information a school district, open-enrollment charter school, or shared services arrangement and a substitute teacher must provide under this section. Not later than September 1, 2011, the agency must obtain all national criminal history record information on all substitute teachers. This subsection
expires October 1, 2011.

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

Sec. 22.0837. FEE FOR NATIONAL CRIMINAL HISTORY RECORD INFORMATION. The agency by rule shall require a person submitting to a national criminal history record information review under Section 22.0832, 22.0833, or 22.0836 to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an applicant for certification under Subchapter B, Chapter 21, for a national criminal history record information review under Section 22.0831. The agency or the department may require an entity authorized to collect information for a national criminal history record information review to collect the fee required under this section and to remit the funds collected to the agency.

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

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

(1) the employee or applicant has been convicted of:

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

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

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

(2) at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(b) Subsection (a) does not apply if the employee or applicant for employment committed an offense under Title 5, Penal Code and:

(1) the date of the offense is more than 30 years before:

(A) the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007, in the case of a person employed by a school district, open-enrollment charter school, or shared services arrangement as of that date; or

(B) the date the person's employment will begin, in the case of a person applying for employment with a school district, open-enrollment charter school, or shared services arrangement after the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007; and

(2) the employee or applicant for employment satisfied all terms of the court order entered on conviction.

(c) A school district, open-enrollment charter school, or shared services arrangement may not allow a person who is an employee of or applicant for employment by an entity that contracts with the district, school, or shared services arrangement to serve
at the district or school or for the shared services arrangement if
the district, school, or shared services arrangement obtains
information described by Subsection (a) through a criminal history
record information review concerning the employee or applicant. A
school district, open-enrollment charter school, or shared
services arrangement must ensure that an entity that the district,
school, or shared services arrangement contracts with for services
has obtained all criminal history record information as required by
Section 22.0834.

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

(e) The State Board for Educator Certification may impose a
sanction on an educator who does not discharge an employee or refuse
to hire an applicant if the educator knows or should have known,
through a criminal history record information review, that the
employee or applicant has been convicted of an offense described by
Subsection (a).

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

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

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

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

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

(b) A school district may establish an electronic database
for the purpose of storing information concerning visitors to
district campuses. Information stored in the electronic database
may be used only for the purpose of school district security and may
not be sold or otherwise disseminated to a third party for any
purpose.

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

(d) The board of trustees of a school district shall adopt a policy regarding the action to be taken by the administration of a school campus when a visitor is identified as a sex offender.

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

(d) The department shall release information regarding a person alleged to have committed abuse or neglect to persons who have control over the person's access to children, including, as appropriate, the Texas Education Agency, the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, or the school principal or director if the department determines that:

(1) the person alleged to have committed abuse or neglect poses a substantial and immediate risk of harm to one or more children outside the family of a child who is the subject of the investigation; and

(2) the release of the information is necessary to assist in protecting one or more children from the person alleged to have committed abuse or neglect.

(e) On request, the department shall release information about a person alleged to have committed abuse or neglect to the State Board for Educator Certification if the board has a reasonable basis for believing that the information is necessary to assist the board in protecting children from the person alleged to have committed abuse or neglect.
S.B. No. 9

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

(b) The department shall send a copy of the completed report of the department's investigation[written] as appropriate, to the Texas Education Agency, the State Board for Educator Certification, the local school board or the school's governing body, the superintendent of the school district, and the school principal or director, unless the principal or director is alleged to have committed the abuse or neglect, for appropriate action. On request, the department shall provide a copy of the report of investigation to the parent, managing conservator, or legal guardian of a child who is the subject of the investigation and to the person alleged to have committed the abuse or neglect. The report of investigation shall be edited to protect the identity of the persons who made the report of abuse or neglect. Other than the persons authorized by the section to receive a copy of the report, Section 261.201(b) applies to the release of the report confidential information relating to the investigation of a report of abuse or neglect under this section and to the identity of the person who made the report of abuse or neglect.

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

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent
information of all persons arrested for or charged with a criminal
offense or convicted of a criminal offense, regardless of whether
the conviction is probated;

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

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

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

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

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

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

(B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;

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

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

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

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

(G) the date the order expires; and

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

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

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

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

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

(4) active protective orders issued under Chapter 71, Family Code, and reporting procedures that ensure that information relating to the issuance of an active protective order and to the dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered by the local law enforcement agency in the state's law enforcement information system; and

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

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

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

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

(1) the State Board for Educator Certification;

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

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

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

(5) the Board of Law Examiners;
(6) the State Bar of Texas;
(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
(8) the Texas School for the Deaf;
(9) the Department of Family and Protective Services;
(10) the Texas Youth Commission;
(11) the Department of Assistive and Rehabilitative Services;
(12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
(13) the Texas Private Security Board;
(14) a municipal or volunteer fire department;
(15) the Board of Nurse Examiners;
(16) a safe house providing shelter to children in harmful situations;
(17) a public or nonprofit hospital or hospital district;
(18) the Texas Juvenile Probation Commission;
(19) the securities commissioner, the banking commissioner, the savings and loan commissioner, or the credit union commissioner;
(20) the Texas State Board of Public Accountancy;
(21) the Texas Department of Licensing and Regulation;
(22) the Health and Human Services Commission; [and]
(23) the Department of Aging and Disability Services.
and

(24) the Texas Education Agency.

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

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

(1) criminal justice agencies;
(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;
(3) the person who is the subject of the criminal history record information;
(4) a person working on a research or statistical project that:

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

or

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

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

(A) specifically authorizes access to information;

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

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

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

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

(A) specifically authorizes access to information;

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

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

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

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

(B) [7] the Office of Court Administration of the Texas Judicial System.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4), (5), or (6) [8] only for a purpose approved by the department and only under rules adopted by the department. The department may disseminate criminal history record information under Subsection (b)(7)
only to the extent necessary for a county or district clerk
to perform a duty imposed by law to collect and report criminal
court disposition information. Criminal history record
information disseminated to a clerk under Subsection (b)(7)
may be used by the clerk only to ensure that information
reported by the clerk to the department is accurate and complete.
The dissemination of information to a clerk under Subsection (b)(7)
does not affect the authority of the clerk to disclose or
use information submitted by the clerk to the department. The
department may disseminate criminal history record information
under Subsection (b)(8) only to the extent necessary for
the office of court administration to perform a duty imposed by law
to compile court statistics or prepare reports. The office of court
administration may disclose criminal history record information
obtained from the department under Subsection (b)(8) in a
statistic compiled by the office or a report prepared by the office,
but only in a manner that does not identify the person who is the
subject of the information.

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

Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The
department shall establish an electronic clearinghouse and
subscription service to provide criminal history record
information to a particular person entitled to receive criminal
history record information and updates to a particular record to
which the person has subscribed under this subchapter.

(b) On receiving a request for criminal history record
information from a person entitled to such information under this subchapter, the department shall provide through the electronic clearinghouse:

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

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

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

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

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

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

(2) a recent electronic digital image photograph of
the person and a complete set of the person's fingerprints as
required by the department; and

(3) any other information required by the department.

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

(g) As soon as practicable, a subscriber who is no longer
entitled to receive criminal history record information relating to
a particular person shall notify the department. The department
shall cancel the person's subscription to that record and may not
notify the former subscriber of any updated information to that
record.

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

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

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

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

SECTION 19. Section 411.087, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The department may provide access to state and national criminal history record information to nongovernmental entities entitled to that information under 42 U.S.C. Section 5119a. The department must follow federal law and regulation, federal executive orders, and federal policy in releasing information under this subsection.

SECTION 20. Section 411.090, Government Code, is amended by adding Subsection (c) to read as follows:

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

SECTION 21. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0901 to read as follows:

Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:
(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

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

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

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

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

SECTION 22. The heading to Section 411.097, Government Code, is amended to read as follows:

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES [SCHOOL DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION SHARED SERVICES ARRANGEMENT].

SECTION 23. Subsections (a) and (b), Section 411.097, Government Code, are amended to read as follows:

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

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

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

(3) an employee of or applicant for employment by an
entity that contracts to provide services to a school district,
charter school, or shared services arrangement as provided by
Section 22.0834, Education Code.

(b) A school district, charter school, private school,
regional education service center, or education shared services
arrangement is entitled to obtain from the department[ no more
than twice each year,] criminal history record information
maintained by the department that the district, school, service
center, or shared services arrangement is required or authorized to
obtain under Subchapter C, Chapter 22, Education Code, that relates
to a person who is a volunteer, student teacher, or employee of the
district, school, service center, or shared services arrangement.
SECTION 24. Subsection (a), Section 552.116, Government Code, is amended to read as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

SECTION 25. Subdivision (1), Subsection (b), Section 552.116, Government Code, is amended to read as follows:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

SECTION 26. Section 730.007, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) Personal information obtained by an agency under Section 411.0845, Government Code, in connection with a motor vehicle record may be disclosed as provided by that section.
SECTION 27. Subsections (c) and (d), Section 22.083, Education Code, are repealed.

SECTION 28. Section 21.007, Education Code, as added by this Act, applies only to a report for misconduct filed with the State Board for Educator Certification on or after September 1, 2007, regardless of whether the conduct or act that is the subject of the report occurred or was committed before, on, or after that date.

SECTION 29. As soon as practicable after the effective date of this Act, the State Board for Educator Certification, the Texas Education Agency, a school district, an open-enrollment charter school, or a shared services arrangement shall, in the manner prescribed by Sections 22.0831, 22.0832, 22.0833, and 22.0836, Education Code, as added by this Act, begin obtaining national criminal history record information for employees and applicants for employment who are subject to a national criminal history record information review under those sections.

SECTION 30. As soon as practicable after the effective date of this Act, an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement shall, in the manner prescribed by Section 22.0834, Education Code, as added by this Act, begin obtaining national criminal history record information for employees and applicants for employment who are subject to a national criminal history record information review under that section.

SECTION 31. Beginning September 1, 2007, a school district, open-enrollment charter school, or shared services arrangement
shall obtain, in compliance with Section 22.0835, Education Code, as added by this Act, criminal history record information relating to each person who is a student teacher or volunteer or has indicated in writing an intention to serve as a volunteer with the district, school, or shared services arrangement in any capacity.

SECTION 32. As soon as practicable after the effective date of this Act, the Department of Public Safety of the State of Texas shall establish a criminal history clearinghouse as required by Section 411.0845, Government Code, as added by this Act.

SECTION 33. Section 552.116, Government Code, as amended by this Act, applies to an audit working paper created before, on, or after the effective date of this Act.

SECTION 34. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.
S.B. No. 9

President of the Senate

I hereby certify that S.B. No. 9 passed the Senate on March 26, 2007, by the following vote: Yeas 29, Nays 0; May 24, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Speaker of the House

Secretary of the Senate

I hereby certify that S.B. No. 9 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 127, Nays 8, one present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 27, 2007, House adopted Conference Committee Report by the following vote: Yeas 139, Nays 4, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor