

By: Shapiro, et al.

S.B. No. 9

Substitute the following for S.B. No. 9:

By: Branch

C.S.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. Subchapter B, Chapter 21, Education Code, is
27 amended by adding Section 21.060 to read as follows:

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

8 (1) an offense involving moral turpitude;

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

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

17 (4) an offense involving the illegal transfer,
18 appropriation, or use of school district funds or other district
19 property; or

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

23 SECTION 5. Sections 22.081 and 22.082, Education Code, are
24 amended to read as follows:

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

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

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

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

7 (A) [~~(1)~~] offers a course of instruction for
8 students in one or more grades from prekindergarten through grade
9 12; and

10 (B) [~~(2)~~] is not operated by a governmental
11 entity.

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

21 SECTION 6. The heading to Section 22.083, Education Code,
22 is amended to read as follows:

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

25 SECTION 7. Section 22.083, Education Code, is amended by
26 amending Subsections (a) and (b) and adding Subsections (a-1) and
27 (a-2) to read as follows:

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

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

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

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

19 (1) the department;

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

21 (3) a private entity that is a consumer reporting
22 agency governed by the Fair Credit Reporting Act (15 U.S.C. Section
23 1681 et seq.).

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

1 employ in any capacity.

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

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

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

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

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

16 SECTION 8. Subchapter C, Chapter 22, Education Code, is
17 amended by adding Sections 22.0831 through 22.0836 to read as
18 follows:

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

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

27 (c) The board shall review the national criminal history

1 record information of a person who has not previously submitted
2 fingerprints to the department or been subject to a national
3 criminal history record information review.

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

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

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

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

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

19 (g) The board by rule shall establish a schedule for
20 obtaining and reviewing the information a certified educator must
21 provide the board under this section. Not later than September 1,
22 2011, the board must obtain all national criminal history record
23 information on all certified educators. This subsection expires
24 October 1, 2011.

25 Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
26 REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL EMPLOYEES. (a)
27 The agency shall review the national criminal history record

1 information of an employee of an open-enrollment charter school to
2 whom Section 12.1059 applies in the same manner as the State Board
3 for Educator Certification reviews certified educators under
4 Section 22.0831. If the agency determines that, based on
5 information contained in an employee's criminal history record
6 information, the employee would not be eligible for educator
7 certification under Subchapter B, Chapter 21, the agency shall
8 notify the open-enrollment charter school in writing that the
9 person may not be employed by the school or serve in a capacity
10 described by Section 12.1059.

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

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

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

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

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

1 section before being employed or serving in a capacity described by
2 Subsection (a).

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

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

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

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

24 (g) A school district, open-enrollment charter school, or
25 shared services arrangement shall provide the agency with the name
26 of a person to whom this section applies. The agency shall obtain
27 all criminal history record information of the person through the

1 criminal history clearinghouse as provided by Section 411.0845,
2 Government Code. The agency shall examine the criminal history
3 record information of the person and notify the district, school,
4 or shared services arrangement if the person may not be hired or
5 must be discharged as provided by Section 22.085.

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

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

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

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

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

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

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

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

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

25 (f) In the event of an emergency, a school district may
26 allow a person to whom Subsection (a) or (g) applies to enter school
27 district property if the person is accompanied by a district

1 employee. A school district may adopt rules regarding an emergency
2 situation under this subsection.

3 (g) An entity that contracts with a school district,
4 open-enrollment charter school, or shared services arrangement to
5 provide services shall obtain from any law enforcement or criminal
6 justice agency or a private entity that is a consumer reporting
7 agency governed by the Fair Credit Reporting Act (15 U.S.C. Section
8 1681 et seq.), all criminal history record information that relates
9 to an employee of the entity who is employed before January 1, 2008,
10 and who is not subject to a national criminal history record
11 information review under Subsection (b) if:

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

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

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

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

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

24 Sec. 22.0835. ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT
25 TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION
26 AUTHORITIES. (a) A school district, open-enrollment charter
27 school, or shared services arrangement shall obtain from the

1 department and may obtain from any other law enforcement or
2 criminal justice agency or a private entity that is a consumer
3 reporting agency governed by the Fair Credit Reporting Act (15
4 U.S.C. Section 1681 et seq.), all criminal history record
5 information that relates to:

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

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

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

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

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

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

1 the person:

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

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

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

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

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

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

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

25 (c) A school district, open-enrollment charter school, or
26 shared services arrangement shall send or ensure that a person to
27 whom this section applies sends to the department information that

1 is required by the department for obtaining national criminal
2 history record information, which may include fingerprints and
3 photographs.

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

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

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

17 (g) A school district, open-enrollment charter school, or
18 shared services arrangement shall provide the agency with the name
19 of a person to whom this section applies. The agency shall obtain
20 all criminal history record information of the person through the
21 criminal history clearinghouse as provided by Section 411.0845,
22 Government Code. The agency shall examine the criminal history
23 record information and certification records of the person and
24 notify the district, school, or shared services arrangement if the
25 person:

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

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

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

11 (i) The agency shall establish a schedule for obtaining and
12 reviewing the information a school district, open-enrollment
13 charter school, or shared services arrangement and a substitute
14 teacher must provide under this section. Not later than September
15 1, 2011, the agency must obtain all national criminal history
16 record information on all substitute teachers. This subsection
17 expires October 1, 2011.

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

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

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

1 review that:

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

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

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

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

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

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

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

18 (A) the effective date of S.B. No. 9, Acts of the
19 80th Legislature, Regular Session, 2007, in the case of a person
20 employed by a school district, open-enrollment charter school, or
21 shared services arrangement as of that date; or

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

27 (2) the employee or applicant for employment satisfied

1 all terms of the court order entered on conviction.

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

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

25 (e) The State Board for Educator Certification may impose a
26 sanction on an educator who does not discharge an employee or refuse
27 to hire an applicant if the educator knows or should have known,

1 through a criminal history record information review, that the
2 employee or applicant has been convicted of an offense described by
3 Subsection (a).

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

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

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

18 SECTION 11. Subchapter A, Chapter 38, Education Code, is
19 amended by adding Section 38.022 to read as follows:

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

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

1 not be sold or otherwise disseminated to a third party for any
2 purpose.

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

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

11 SECTION 12. Section 261.308, Family Code, is amended by
12 adding Subsections (d) and (e) to read as follows:

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

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

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

27 (e) On request, the department shall release information

1 about a person alleged to have committed abuse or neglect to the
2 State Board for Educator Certification if the board has a
3 reasonable basis for believing that the information is necessary to
4 assist the board in protecting children from the person alleged to
5 have committed abuse or neglect.

6 SECTION 13. Subsection (b), Section 261.406, Family Code,
7 is amended to read as follows:

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

27 SECTION 14. Section 411.042, Government Code, is amended by

1 amending Subsections (b) and (g) and adding Subsection (h) to read
2 as follows:

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

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

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

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

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

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

26 (6) collect information concerning the number and
27 nature of protective orders and all other pertinent information

1 about all persons on active protective orders. Information in the
2 law enforcement information system relating to an active protective
3 order shall include:

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

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

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

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

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

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

23 (G) the date the order expires; and

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

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

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

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

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

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

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

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

19 SECTION 15. Subsection (i), Section 411.081, Government
20 Code, is amended to read as follows:

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

24 (1) the State Board for Educator Certification;

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

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

1 union commissioner;

2 (20) the Texas State Board of Public Accountancy;

3 (21) the Texas Department of Licensing and Regulation;

4 (22) the Health and Human Services Commission; ~~and~~

5 (23) the Department of Aging and Disability Services;

6 and

7 (24) the Texas Education Agency.

8 SECTION 16. Subsections (b) and (c), Section 411.083,
9 Government Code, are amended to read as follows:

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

12 (1) criminal justice agencies;

13 (2) noncriminal justice agencies authorized by
14 federal statute or executive order or by state statute to receive
15 criminal history record information;

16 (3) the person who is the subject of the criminal
17 history record information;

18 (4) a person working on a research or statistical
19 project that:

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

21 or

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

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

1 (A) specifically authorizes access to
2 information;

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

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

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

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

13 (A) specifically authorizes access to
14 information;

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

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

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

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

22 (8) [~~7~~] the Office of Court Administration of the
23 Texas Judicial System.

24 (c) The department may disseminate criminal history record
25 information under Subsection (b)(1) only for a criminal justice
26 purpose. The department may disseminate criminal history record
27 information under Subsection (b)(2) only for a purpose specified in

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

24 SECTION 17. Subchapter F, Chapter 411, Government Code, is
25 amended by adding Section 411.0845 to read as follows:

26 Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The
27 department shall establish an electronic clearinghouse and

1 subscription service to provide criminal history record
2 information to a particular person entitled to receive criminal
3 history record information and updates to a particular record to
4 which the person has subscribed under this subchapter.

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

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

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

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

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

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

1 the criminal history record information requested:

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

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

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

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

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

27 (h) A person who is the subject of the criminal history

1 record information requested under this section must consent to the
2 release of the information.

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

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

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

13 SECTION 18. Section 411.087, Government Code, is amended by
14 adding Subsection (e) to read as follows:

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

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

23 (c) The department shall notify the State Board for Educator
24 Certification of the arrest of any educator, as defined by Section
25 5.001, Education Code, who has fingerprints on file with the
26 department.

27 SECTION 20. Subchapter F, Chapter 411, Government Code, is

1 amended by adding Section 411.0901 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) A school district, charter school, private school,
25 regional education service center, or education shared services
26 arrangement is entitled to obtain from the department [~~no more~~
27 ~~than twice each year,~~] criminal history record information

1 maintained by the department that the district, school, service
2 center, or shared services arrangement is required or authorized to
3 obtain under Subchapter C, Chapter 22, Education Code, that relates
4 to a person who is a volunteer, student teacher, or employee of the
5 district, school, service center, or shared services arrangement.

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

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

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

13 SECTION 25. Section 21.007, Education Code, as added by
14 this Act, applies only to a report for misconduct filed with the
15 State Board for Educator Certification on or after September 1,
16 2007, regardless of whether the conduct or act that is the subject
17 of the report occurred or was committed before, on, or after that
18 date.

19 SECTION 26. As soon as practicable after the effective date
20 of this Act, the State Board for Educator Certification, the Texas
21 Education Agency, a school district, an open-enrollment charter
22 school, or a shared services arrangement shall, in the manner
23 prescribed by Sections 22.0831, 22.0832, 22.0833, and 22.0836,
24 Education Code, as added by this Act, begin obtaining national
25 criminal history record information for employees and applicants
26 for employment who are subject to a national criminal history
27 record information review under those sections.

1 SECTION 27. As soon as practicable after the effective date
2 of this Act, an entity that contracts with a school district,
3 open-enrollment charter school, or shared services arrangement
4 shall, in the manner prescribed by Section 22.0834, Education Code,
5 as added by this Act, begin obtaining national criminal history
6 record information for employees and applicants for employment who
7 are subject to a national criminal history record information
8 review under that section.

9 SECTION 28. Beginning September 1, 2007, a school district,
10 open-enrollment charter school, or shared services arrangement
11 shall obtain, in compliance with Section 22.0835, Education Code,
12 as added by this Act, criminal history record information relating
13 to each person who is a student teacher or volunteer or has
14 indicated in writing an intention to serve as a volunteer with the
15 district, school, or shared services arrangement in any capacity.

16 SECTION 29. As soon as practicable after the effective date
17 of this Act, the Department of Public Safety of the State of Texas
18 shall establish a criminal history clearinghouse as required by
19 Section 411.0845, Government Code, as added by this Act.

20 SECTION 30. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2007.