

1-1 By: Shapiro S.B. No. 9
1-2 (In the Senate - Filed February 21, 2007; February 21, 2007,
1-3 read first time and referred to Committee on Education;
1-4 March 20, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 20, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 9 By: Shapiro

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the dissemination of criminal history record
1-11 information and child abuse investigation reports for certain
1-12 purposes, including the certification and employment of educators
1-13 and other public school employees who engage in certain misconduct.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter B, Chapter 8, Education Code, is
1-16 amended by adding Section 8.057 to read as follows:

1-17 Sec. 8.057. ASSISTANCE WITH CRIMINAL HISTORY RECORD
1-18 INFORMATION. The agency may require a regional education service
1-19 center to assist in collecting information needed for a criminal
1-20 history record information review under Subchapter C, Chapter 22.

1-21 SECTION 2. Subchapter D, Chapter 12, Education Code, is
1-22 amended by adding Section 12.1059 to read as follows:

1-23 Sec. 12.1059. AGENCY APPROVAL REQUIRED FOR CERTAIN
1-24 EMPLOYEES. A person may not be employed by or serve as a teacher,
1-25 librarian, educational aide, administrator, or counselor for an
1-26 open-enrollment charter school unless the person has been approved
1-27 by the agency following a review of the person's national criminal
1-28 history record information as provided by Section 22.0832.

1-29 SECTION 3. Subchapter A, Chapter 21, Education Code, is
1-30 amended by adding Section 21.007 to read as follows:

1-31 Sec. 21.007. NOTICE ON CERTIFICATION RECORD OF ALLEGED
1-32 MISCONDUCT. (a) In this section, "board" means the State Board
1-33 for Educator Certification.

1-34 (b) The board shall adopt a procedure for placing a notice
1-35 of alleged misconduct on an educator's public certification
1-36 records. The procedure adopted by the board must provide for
1-37 immediate placement of a notice of alleged misconduct on an
1-38 educator's public certification records if the alleged misconduct
1-39 presents a risk to the health, safety, or welfare of a student or
1-40 minor as determined by the board.

1-41 (c) The board must notify an educator in writing when
1-42 placing a notice of an alleged incident of misconduct on the public
1-43 certification records of the educator.

1-44 (d) The board must provide an opportunity for an educator to
1-45 show cause why the notice should not be placed on the educator's
1-46 public certification records. The board shall propose rules
1-47 establishing the length of time that a notice may remain on the
1-48 educator's public certification records before the board must:

1-49 (1) initiate a proceeding to impose a sanction on the
1-50 educator on the basis of the alleged misconduct; or

1-51 (2) remove the notice from the educator's public
1-52 certification records.

1-53 (e) If it is determined that the educator has not engaged in
1-54 the alleged incident of misconduct, the board shall immediately
1-55 remove the notice from the educator's public certification records.

1-56 (f) The board shall propose rules necessary to administer
1-57 this section.

1-58 SECTION 4. Subsections (a) and (b), Section 21.058,
1-59 Education Code, are amended to read as follows:

1-60 (a) This section applies only:

1-61 (1) to conviction or deferred adjudication of a felony
1-62 offense under Title 5, Penal Code, or an offense on conviction of
1-63 which a defendant is required to register as a sex offender under

2-1 Chapter 62, Code of Criminal Procedure; and
2-2 (2) if the victim of the offense is under 18 years of
2-3 age.

2-4 (b) Notwithstanding Section 21.041(b)(7), not later than
2-5 the fifth day after the date the board receives notice under Article
2-6 42.018, Code of Criminal Procedure, of the conviction or deferred
2-7 adjudication of a person who holds a certificate under this
2-8 subchapter, the board shall:

- 2-9 (1) revoke the certificate held by the person; and
- 2-10 (2) provide to the person and to any school district or
- 2-11 open-enrollment charter school employing the person at the time of
- 2-12 revocation written notice of:
 - 2-13 (A) the revocation; and
 - 2-14 (B) the basis for the revocation.

2-15 SECTION 5. Subchapter B, Chapter 21, Education Code, is
2-16 amended by adding Section 21.060 to read as follows:

2-17 Sec. 21.060. ELIGIBILITY OF PERSONS RECEIVING DEFERRED
2-18 ADJUDICATION FOR OR CONVICTED OF CERTAIN OFFENSES. The board may
2-19 suspend or revoke the certificate or permit held by a person under
2-20 this subchapter, impose other sanctions against the person, or
2-21 refuse to issue a certificate or permit to a person under this
2-22 subchapter if the person has received deferred adjudication for or
2-23 has been convicted of a felony or misdemeanor offense relating to
2-24 the duties and responsibilities of the education profession,
2-25 including:

- 2-26 (1) an offense involving moral turpitude;
- 2-27 (2) an offense involving a form of sexual or physical
- 2-28 abuse of a minor or student or other illegal conduct with a minor or
- 2-29 student;
- 2-30 (3) a felony offense involving the possession,
- 2-31 transfer, sale, or distribution of or conspiracy to possess,
- 2-32 transfer, sell, or distribute a controlled substance, as defined by
- 2-33 Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et
- 2-34 seq.;
- 2-35 (4) an offense involving the illegal transfer,
- 2-36 appropriation, or use of school district funds or other district
- 2-37 property;
- 2-38 (5) an offense involving an attempt by fraudulent or
- 2-39 unauthorized means to obtain or alter a professional certificate or
- 2-40 license issued under this subchapter; or
- 2-41 (6) an offense in which any part of the offense occurs
- 2-42 on school district property or at a school-sponsored event.

2-43 SECTION 6. Sections 22.081 and 22.082, Education Code, are
2-44 amended to read as follows:

2-45 Sec. 22.081. DEFINITIONS [DEFINITION]. In this subchapter:

- 2-46 (1) "Department" means the Department of Public
- 2-47 Safety.
- 2-48 (2) "National criminal history record information"
- 2-49 means criminal history record information obtained from the
- 2-50 department under Subchapter F, Chapter 411, Government Code, and
- 2-51 from the Federal Bureau of Investigation under Section 411.087,
- 2-52 Government Code.
- 2-53 (3) "Private[, "private] school" means a school that:
- 2-54 (A) [(-1)] offers a course of instruction for
- 2-55 students in one or more grades from prekindergarten through grade
- 2-56 12; and
- 2-57 (B) [(-2)] is not operated by a governmental
- 2-58 entity.

2-59 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
2-60 BOARD FOR EDUCATOR CERTIFICATION. The State Board for Educator
2-61 Certification shall subscribe to the criminal history
2-62 clearinghouse as provided by Section 411.0845, Government Code, and
2-63 may obtain from any law enforcement or criminal justice agency all
2-64 criminal history record information and all records contained in
2-65 any closed criminal investigation file that relate [relates] to a
2-66 specific [an] applicant for or holder of a certificate issued under
2-67 Subchapter B, Chapter 21.

2-68 SECTION 7. The heading to Section 22.083, Education Code,
2-69 is amended to read as follows:

3-1 Sec. 22.083. ACCESS TO CRIMINAL HISTORY RECORDS OF
 3-2 EMPLOYEES BY LOCAL AND REGIONAL EDUCATION AUTHORITIES.

3-3 SECTION 8. Section 22.083, Education Code, is amended by
 3-4 amending Subsections (a) and (b) and adding Subsection (a-1) to
 3-5 read as follows:

3-6 (a) A school district, open-enrollment charter school,
 3-7 [private school, regional education service center,] or shared
 3-8 services arrangement shall [may] obtain from the department and may
 3-9 obtain from any other law enforcement or criminal justice agency
 3-10 all criminal history record information that relates to a person
 3-11 who is not subject to a national criminal history record
 3-12 information review under this subchapter and who is an employee of:

3-13 (1) [whom] the district or [r] school [r, service center,
 3-14 or shared services arrangement intends to employ in any capacity];
 3-15 or

3-16 (2) a shared services arrangement, if the employee's
 3-17 duties are performed on school property or at another location
 3-18 where students are regularly present [who has indicated, in
 3-19 writing, an intention to serve as a volunteer with the district,
 3-20 school, service center, or shared services arrangement].

3-21 (a-1) A shared services arrangement may obtain from any law
 3-22 enforcement or criminal justice agency all criminal history record
 3-23 information that relates to a person who is not subject to
 3-24 Subsection (a) and whom the shared services arrangement intends to
 3-25 employ in any capacity.

3-26 (b) A private school or regional education service center
 3-27 may [An open-enrollment charter school shall] obtain from any law
 3-28 enforcement or criminal justice agency all criminal history record
 3-29 information that relates to:

3-30 (1) a person whom the school or service center intends
 3-31 to employ in any capacity; or

3-32 (2) an employee of or applicant for employment by a
 3-33 person that contracts with the school or service center to provide
 3-34 services, if:

3-35 (A) the employee or applicant has or will have
 3-36 continuing duties related to the contracted services; and

3-37 (B) the employee or applicant has or will have
 3-38 direct contact with students [a person who has indicated, in
 3-39 writing, an intention to serve as a volunteer with the school].

3-40 SECTION 9. Subchapter C, Chapter 22, Education Code, is
 3-41 amended by adding Sections 22.0831 through 22.0837 to read as
 3-42 follows:

3-43 Sec. 22.0831. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
 3-44 REVIEW OF CERTIFIED EDUCATORS. (a) In this section, "board" means
 3-45 the State Board for Educator Certification.

3-46 (b) This section applies to a person who is an applicant for
 3-47 or holder of a certificate under Subchapter B, Chapter 21, and who
 3-48 is employed by or is an applicant for employment by a school
 3-49 district, open-enrollment charter school, or shared services
 3-50 arrangement.

3-51 (c) The board shall review the national criminal history
 3-52 record information of a person who has not previously submitted
 3-53 fingerprints to the department or been subject to a national
 3-54 criminal history record information review.

3-55 (d) The board shall place an educator's certificate on
 3-56 inactive status for failure to comply with a deadline for
 3-57 submitting information required under this section.

3-58 (e) The board may allow a person who is applying for a
 3-59 certificate under Subchapter B, Chapter 21, and who currently
 3-60 resides in another state to submit the person's fingerprints and
 3-61 other required information in a manner that does not impose an undue
 3-62 hardship on the person.

3-63 (f) The board may propose rules to implement this section,
 3-64 including rules establishing:

3-65 (1) deadlines for a person to submit fingerprints and
 3-66 photographs in compliance with this section; and

3-67 (2) sanctions for a person's failure to comply with the
 3-68 requirements of this section, including suspension or revocation of
 3-69 a certificate or refusal to issue a certificate.

4-1 (g) The board shall establish a schedule for obtaining and
 4-2 reviewing the information a certified educator must provide the
 4-3 board under this section. Not later than September 1, 2010, the
 4-4 board must obtain all national criminal history record information
 4-5 on all certified educators. This subsection expires October 1,
 4-6 2010.

4-7 Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
 4-8 REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL EMPLOYEES. The
 4-9 agency shall review the national criminal history record
 4-10 information of an employee of an open-enrollment charter school to
 4-11 whom Section 12.1059 applies in the same manner as the State Board
 4-12 for Educator Certification reviews certified educators under
 4-13 Section 22.0831. If the agency determines that, based on
 4-14 information contained in an employee's criminal history record
 4-15 information, the employee would not be eligible for educator
 4-16 certification under Subchapter B, Chapter 21, the agency shall
 4-17 notify the open-enrollment charter school in writing that the
 4-18 person may not be employed by the school or serve in a capacity
 4-19 described by Section 12.1059.

4-20 Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
 4-21 REVIEW OF NONCERTIFIED EMPLOYEES. (a) This section applies to a
 4-22 person who is not an applicant for or holder of a certificate under
 4-23 Subchapter B, Chapter 21, and who on or after September 1, 2007, is
 4-24 offered employment by:

4-25 (1) a school district or open-enrollment charter
 4-26 school; or
 4-27 (2) a shared services arrangement, if the employee's
 4-28 or applicant's duties are or will be performed on school property or
 4-29 at another location where students are regularly present.

4-30 (b) A person to whom this section applies must submit to a
 4-31 national criminal history record information review under this
 4-32 section before being employed or serving in a capacity described by
 4-33 Subsection (a).

4-34 (c) Before or immediately after employing or securing the
 4-35 services of a person to whom this section applies, a school
 4-36 district, open-enrollment charter school, or shared services
 4-37 arrangement shall send or ensure that the person sends to the
 4-38 department information that is required by the department for
 4-39 obtaining national criminal history record information, which may
 4-40 include fingerprints and photographs.

4-41 (d) The department shall obtain the person's national
 4-42 criminal history record information and report the results through
 4-43 the criminal history clearinghouse as provided by Section 411.0845,
 4-44 Government Code.

4-45 (e) Each school district, open-enrollment charter school,
 4-46 and shared services arrangement shall obtain all criminal history
 4-47 record information that relates to a person to whom this section
 4-48 applies through the criminal history clearinghouse as provided by
 4-49 Section 411.0845, Government Code, and shall subscribe to the
 4-50 criminal history record information of the person.

4-51 (f) The school district, open-enrollment charter school, or
 4-52 shared services arrangement may require a person to pay any fees
 4-53 related to obtaining criminal history record information under this
 4-54 section.

4-55 (g) A school district, open-enrollment charter school, or
 4-56 shared services arrangement shall provide the agency with the name
 4-57 of a person to whom this section applies. The agency shall obtain
 4-58 all criminal history record information of the person through the
 4-59 criminal history clearinghouse as provided by Section 411.0845,
 4-60 Government Code. The agency shall examine the criminal history
 4-61 record information of the person and notify the district, school,
 4-62 or shared services arrangement if the person may not be hired or
 4-63 must be discharged as provided by Section 22.085.

4-64 (h) The agency, the State Board for Educator Certification,
 4-65 school districts, open-enrollment charter schools, and shared
 4-66 services arrangements may coordinate as necessary to ensure that
 4-67 criminal history reviews authorized or required under this
 4-68 subchapter are not unnecessarily duplicated.

4-69 (i) The department in coordination with the commissioner

5-1 may adopt rules necessary to implement this section.

5-2 Sec. 22.0834. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
 5-3 REVIEW OF CERTAIN CONTRACT EMPLOYEES. (a) This section applies to
 5-4 a person who is not an applicant for or holder of a certificate
 5-5 under Subchapter B, Chapter 21, and who on or after September 1,
 5-6 2007, is offered employment by an entity that contracts with a
 5-7 school district, open-enrollment charter school, or shared
 5-8 services arrangement to provide services, if:

5-9 (1) the employee or applicant has or will have
 5-10 continuing duties related to the contracted services; and

5-11 (2) the employee or applicant has or will have direct
 5-12 contact with students.

5-13 (b) A person to whom this section applies must submit to a
 5-14 national criminal history record information review under this
 5-15 section before being employed or serving in a capacity described by
 5-16 Subsection (a).

5-17 (c) Before or immediately after employing or securing the
 5-18 services of a person to whom this section applies, the entity
 5-19 contracting with a school district, open-enrollment charter
 5-20 school, or shared services arrangement shall send or ensure that
 5-21 the person sends to the department information that is required by
 5-22 the department for obtaining national criminal history record
 5-23 information, which may include fingerprints and photographs.

5-24 (d) The department shall obtain the person's national
 5-25 criminal history record information and report the results through
 5-26 the criminal history clearinghouse as provided by Section 411.0845,
 5-27 Government Code.

5-28 (e) An entity contracting with a school district,
 5-29 open-enrollment charter school, or shared services arrangement
 5-30 shall obtain all criminal history record information that relates
 5-31 to a person to whom this section applies through the criminal
 5-32 history clearinghouse as provided by Section 411.0845, Government
 5-33 Code.

5-34 (f) A school district, open-enrollment charter school, or
 5-35 shared services arrangement may obtain the criminal history record
 5-36 information of a person to whom this section applies through the
 5-37 criminal history clearinghouse as provided by Section 411.0845,
 5-38 Government Code.

5-39 Sec. 22.0835. CRIMINAL HISTORY OF CERTAIN CONTRACT
 5-40 EMPLOYEES. (a) An entity that contracts with a school district,
 5-41 open-enrollment charter school, or shared services arrangement to
 5-42 provide services shall obtain from any law enforcement or criminal
 5-43 justice agency all criminal history record information that relates
 5-44 to an employee of the entity who is not subject to a national
 5-45 criminal history record information review under Section 22.0834
 5-46 if:

5-47 (1) the employee has continuing duties related to the
 5-48 contracted services; and

5-49 (2) the employee has direct contact with students.

5-50 (b) A school district, open-enrollment charter school, or
 5-51 shared services arrangement may obtain from any law enforcement or
 5-52 criminal justice agency all criminal history record information
 5-53 that relates to a person to whom this section applies.

5-54 Sec. 22.0836. ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT
 5-55 TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION
 5-56 AUTHORITIES. (a) A school district, open-enrollment charter
 5-57 school, or shared services arrangement shall obtain from the
 5-58 department and may obtain from any other law enforcement or
 5-59 criminal justice agency all criminal history record information
 5-60 that relates to:

5-61 (1) a person participating in an internship consisting
 5-62 of student teaching to receive a teaching certificate; or

5-63 (2) a volunteer or person who has indicated, in
 5-64 writing, an intention to serve as a volunteer with the district,
 5-65 school, or shared services arrangement.

5-66 (b) A private school or regional education service center
 5-67 may obtain from any law enforcement or criminal justice agency all
 5-68 criminal history record information that relates to a person who
 5-69 volunteers or has indicated, in writing, an intention to serve as a

6-1 volunteer with the school or service center.

6-2 (c) A person to whom Subsection (a) or (b) applies must
 6-3 provide to the school district, open-enrollment charter school,
 6-4 private school, regional education service center, or shared
 6-5 services arrangement a driver's license or another form of
 6-6 identification containing the person's photograph issued by an
 6-7 entity of the United States government.

6-8 (d) A person to whom Subsection (a) applies may not perform
 6-9 any student teaching or volunteer duties until all requirements
 6-10 under Subsections (a) and (c) have been satisfied.

6-11 (e) Subsections (a) and (c) do not apply to a person who
 6-12 volunteers or is applying to volunteer with a school district,
 6-13 open-enrollment charter school, or shared services arrangement if
 6-14 the person is the parent, guardian, or grandparent of a child who is
 6-15 enrolled in the district or school for which the person volunteers
 6-16 or is applying to volunteer.

6-17 (f) A school district, open-enrollment charter school, or
 6-18 shared services arrangement may obtain from any law enforcement or
 6-19 criminal justice agency all criminal history record information
 6-20 that relates to a person to whom Subsection (e) applies.

6-21 (g) A school district, open-enrollment charter school,
 6-22 private school, regional education service center, or shared
 6-23 services arrangement may require a student teacher, volunteer, or
 6-24 volunteer applicant to pay any costs related to obtaining criminal
 6-25 history record information under this section.

6-26 Sec. 22.0837. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
 6-27 REVIEW OF SUBSTITUTE TEACHERS. (a) This section applies to a
 6-28 person who is a substitute teacher for a school district,
 6-29 open-enrollment charter school, or shared services arrangement.

6-30 (b) A person to whom this section applies must submit to a
 6-31 national criminal history record information review under this
 6-32 section.

6-33 (c) A school district, open-enrollment charter school, or
 6-34 shared services arrangement shall send or ensure that a person to
 6-35 whom this section applies sends to the department information that
 6-36 is required by the department for obtaining national criminal
 6-37 history record information, which may include fingerprints and
 6-38 photographs.

6-39 (d) The department shall obtain the person's national
 6-40 criminal history record information and report the results through
 6-41 the criminal history clearinghouse as provided by Section 411.0845,
 6-42 Government Code.

6-43 (e) Each school district, open-enrollment charter school,
 6-44 and shared services arrangement shall obtain all criminal history
 6-45 record information that relates to a person to whom this section
 6-46 applies through the criminal history clearinghouse as provided by
 6-47 Section 411.0845, Government Code.

6-48 (f) The school district, open-enrollment charter school, or
 6-49 shared services arrangement may require a person to pay any fees
 6-50 related to obtaining criminal history record information under this
 6-51 section.

6-52 (g) A school district, open-enrollment charter school, or
 6-53 shared services arrangement shall provide the agency with the name
 6-54 of a person to whom this section applies. The agency shall obtain
 6-55 all criminal history record information of the person through the
 6-56 criminal history clearinghouse as provided by Section 411.0845,
 6-57 Government Code. The agency shall examine the criminal history
 6-58 record information and certification records of the person and
 6-59 notify the district, school, or shared services arrangement if the
 6-60 person:

6-61 (1) may not be hired or must be discharged as provided
 6-62 by Section 22.085; or

6-63 (2) may not be employed as a substitute teacher
 6-64 because the person's educator certification has been revoked or is
 6-65 suspended.

6-66 (h) The commissioner may adopt rules to implement this
 6-67 section, including rules establishing deadlines for a school
 6-68 district, open-enrollment charter school, or shared services
 6-69 arrangement to require a person to whom this section applies to

7-1 submit fingerprints and photographs in compliance with this section
 7-2 and the circumstances under which a person may not continue to be
 7-3 employed as a substitute teacher.

7-4 (i) The agency shall establish a schedule for obtaining and
 7-5 reviewing the information a school district, open-enrollment
 7-6 charter school, or shared services arrangement and a substitute
 7-7 teacher must provide under this section. Not later than September
 7-8 1, 2010, the agency must obtain all national criminal history
 7-9 record information on all substitute teachers. This subsection
 7-10 expires October 1, 2010.

7-11 (j) The department in coordination with the commissioner
 7-12 may adopt rules necessary to implement this section.

7-13 SECTION 10. Section 22.085, Education Code, is amended to
 7-14 read as follows:

7-15 Sec. 22.085. [~~DISCHARGE OF~~] EMPLOYEES AND APPLICANTS
 7-16 CONVICTED OF CERTAIN OFFENSES. (a) A school district,
 7-17 open-enrollment charter school, or shared services arrangement
 7-18 shall discharge or refuse to hire an employee or applicant for
 7-19 employment if the district, school, or shared services arrangement
 7-20 obtains information through a criminal history record information
 7-21 review that:

7-22 (1) the employee or applicant has been convicted of or
 7-23 received deferred adjudication for:

7-24 (A) a felony offense under Title 5, Penal Code;
 7-25 (B) an offense on conviction of which a defendant
 7-26 is required to register as a sex offender under Chapter 62, Code of
 7-27 Criminal Procedure; or

7-28 (C) an offense under the laws of another state or
 7-29 federal law that is equivalent to an offense under Paragraph (A) or
 7-30 (B); and

7-31 (2) at the time the offense occurred, the victim of the
 7-32 offense described by Subdivision (1) was under 18 years of age or
 7-33 was enrolled in a public school.

7-34 (b) A school district, open-enrollment charter school, or
 7-35 shared services arrangement may not allow a person who is an
 7-36 employee of or applicant for employment by an entity that contracts
 7-37 with the district, school, or shared services arrangement to serve
 7-38 at the district or school or for the shared services arrangement if
 7-39 the district, school, or shared services arrangement obtains
 7-40 information described by Subsection (a) through a criminal history
 7-41 record information review concerning the employee or applicant. A
 7-42 school district, open-enrollment charter school, or shared
 7-43 services arrangement must ensure that an entity that the district,
 7-44 school, or shared services arrangement contracts with for services
 7-45 has obtained all criminal history record information as required by
 7-46 Sections 22.0834 and 22.0835.

7-47 (c) A school district, open-enrollment charter school,
 7-48 private school, regional education service center, or shared
 7-49 services arrangement may discharge an employee if the district or
 7-50 school obtains information of the employee's conviction or deferred
 7-51 adjudication of a felony or of a misdemeanor involving moral
 7-52 turpitude that the employee did not disclose to the State Board for
 7-53 Educator Certification or the district, school, service center, or
 7-54 shared services arrangement. An employee discharged under this
 7-55 section is considered to have been discharged for misconduct for
 7-56 purposes of Section 207.044, Labor Code.

7-57 (d) The State Board for Educator Certification may impose a
 7-58 sanction on an educator who does not discharge an employee or refuse
 7-59 to hire an applicant if the educator knows or should have known,
 7-60 through a criminal history record information review, that the
 7-61 employee or applicant has been convicted of or received a deferred
 7-62 adjudication for an offense described by Subsection (a).

7-63 (e) Each school year, the superintendent of a school
 7-64 district or chief operating officer of an open-enrollment charter
 7-65 school shall certify to the commissioner that the district or
 7-66 school has complied with this section.

7-67 SECTION 11. Subchapter C, Chapter 22, Education Code, is
 7-68 amended by adding Section 22.087 to read as follows:

7-69 Sec. 22.087. NOTIFICATION TO STATE BOARD FOR EDUCATOR

8-1 CERTIFICATION. The superintendent of a school district or the
 8-2 director of an open-enrollment charter school, private school,
 8-3 regional education service center, or shared services arrangement
 8-4 shall promptly notify the State Board for Educator Certification in
 8-5 writing if the person obtains or has knowledge of information
 8-6 showing that an applicant for or holder of a certificate issued
 8-7 under Subchapter B, Chapter 21, has a reported criminal history.

8-8 SECTION 12. Subchapter A, Chapter 38, Education Code, is
 8-9 amended by adding Section 38.022 to read as follows:

8-10 Sec. 38.022. SCHOOL VISITORS. (a) A school district may
 8-11 require a person who enters a district campus to display the
 8-12 person's driver's license or another form of identification
 8-13 containing the person's photograph issued by a governmental entity.

8-14 (b) A school district may establish an electronic database
 8-15 for the purpose of storing information concerning visitors to
 8-16 district campuses. Information stored in the electronic database
 8-17 may be used only for the purpose of school district security and may
 8-18 not be sold or otherwise disseminated to a third party for any
 8-19 purpose.

8-20 (c) A school district may verify whether a visitor to a
 8-21 district campus is a sex offender registered with the computerized
 8-22 central database maintained by the Department of Public Safety as
 8-23 provided by Article 62.005, Code of Criminal Procedure, or any
 8-24 other database accessible by the district.

8-25 SECTION 13. Section 261.308, Family Code, is amended by
 8-26 adding Subsections (d) and (e) to read as follows:

8-27 (d) If the department or designated agency determines that
 8-28 the risk of harm to one or more children outside the family of the
 8-29 child who is the subject of the investigation is substantial and
 8-30 immediate, the department or designated agency shall send a copy of
 8-31 the completed report of the investigation to persons who have
 8-32 control over the access to children by the person alleged to have
 8-33 committed the abuse or neglect, including, as appropriate, the
 8-34 Texas Education Agency, the State Board for Educator Certification,
 8-35 the local school board or the school's governing body, the
 8-36 superintendent of the school district, or the school principal or
 8-37 director.

8-38 (e) On request of the State Board for Educator
 8-39 Certification, the department or designated agency shall send a
 8-40 copy of the completed report of the investigation to the State Board
 8-41 for Educator Certification.

8-42 SECTION 14. Subsection (b), Section 261.406, Family Code,
 8-43 is amended to read as follows:

8-44 (b) The department shall send a copy of the completed
 8-45 [written] report of the department's investigation[~~, as~~
 8-46 ~~appropriate,~~ to the Texas Education Agency, the State Board for
 8-47 Educator Certification [~~agency responsible for teacher~~
 8-48 ~~certification], the local school board or the school's governing~~
 8-49 body, the superintendent of the school district, and the school
 8-50 principal or director, unless the principal or director is alleged
 8-51 to have committed the abuse or neglect, for appropriate action. On
 8-52 request, the department shall provide a copy of the report of
 8-53 investigation to the parent, managing conservator, or legal
 8-54 guardian of a child who is the subject of the investigation and to
 8-55 the person alleged to have committed the abuse or neglect. The
 8-56 report of investigation shall be edited to protect the identity of
 8-57 the persons who made the report of abuse or neglect. Other than the
 8-58 persons authorized by the section to receive a copy of the report,
 8-59 Section 261.201(b) applies to the release of the report
 8-60 [~~confidential information~~] relating to the investigation of [a
 8-61 ~~report of~~] abuse or neglect under this section and to the identity
 8-62 of the person who made the report of abuse or neglect.

8-63 SECTION 15. Section 411.042, Government Code, is amended by
 8-64 amending Subsections (b) and (g) and adding Subsection (h) to read
 8-65 as follows:

8-66 (b) The bureau of identification and records shall:

8-67 (1) procure and file for record photographs, pictures,
 8-68 descriptions, fingerprints, measurements, and other pertinent
 8-69 information of all persons arrested for or charged with a criminal

9-1 offense or convicted of a criminal offense, regardless of whether
9-2 the conviction is probated;

9-3 (2) collect information concerning the number and
9-4 nature of offenses reported or known to have been committed in the
9-5 state and the legal steps taken in connection with the offenses, and
9-6 other information useful in the study of crime and the
9-7 administration of justice, including a statistical breakdown of
9-8 those offenses in which family violence was involved;

9-9 (3) make ballistic tests of bullets and firearms and
9-10 chemical analyses of bloodstains, cloth, materials, and other
9-11 substances for law enforcement officers of the state;

9-12 (4) cooperate with identification and crime records
9-13 bureaus in other states and the United States Department of
9-14 Justice;

9-15 (5) maintain a list of all previous background checks
9-16 for applicants for any position regulated under Chapter 1702,
9-17 Occupations Code, who have undergone a criminal history background
9-18 check under Section 411.119, if the check indicates a Class B
9-19 misdemeanor or equivalent offense or a greater offense; ~~and~~

9-20 (6) collect information concerning the number and
9-21 nature of protective orders and all other pertinent information
9-22 about all persons on active protective orders. Information in the
9-23 law enforcement information system relating to an active protective
9-24 order shall include:

9-25 (A) the name, sex, race, date of birth, personal
9-26 descriptors, address, and county of residence of the person to whom
9-27 the order is directed;

9-28 (B) any known identifying number of the person to
9-29 whom the order is directed, including the person's social security
9-30 number or driver's license number;

9-31 (C) the name and county of residence of the
9-32 person protected by the order;

9-33 (D) the residence address and place of employment
9-34 or business of the person protected by the order, unless that
9-35 information is excluded from the order under Section 85.007, Family
9-36 Code;

9-37 (E) the child-care facility or school where a
9-38 child protected by the order normally resides or which the child
9-39 normally attends, unless that information is excluded from the
9-40 order under Section 85.007, Family Code;

9-41 (F) the relationship or former relationship
9-42 between the person who is protected by the order and the person to
9-43 whom the order is directed; and

9-44 (G) the date the order expires; and

9-45 (7) grant access to criminal history record
9-46 information in the manner authorized under Subchapter F.

9-47 (g) The department may adopt reasonable rules under this
9-48 section relating to:

9-49 (1) law enforcement information systems maintained by
9-50 the department;

9-51 (2) the collection, maintenance, and correction of
9-52 records;

9-53 (3) reports of criminal history information submitted
9-54 to the department; ~~and~~

9-55 (4) active protective orders issued under Chapter 71,
9-56 Family Code, and reporting procedures that ensure that information
9-57 relating to the issuance of an active protective order and to the
9-58 dismissal of an active protective order is reported to the local law
9-59 enforcement agency at the time of the order's issuance or dismissal
9-60 and entered by the local law enforcement agency in the state's law
9-61 enforcement information system; and

9-62 (5) a system for providing criminal history record
9-63 information through the criminal history clearinghouse under
9-64 Section 411.0845.

9-65 (h) The department may contract with private vendors as
9-66 necessary in implementing this section.

9-67 SECTION 16. Subsection (i), Section 411.081, Government
9-68 Code, is amended to read as follows:

9-69 (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;
- (24) the Texas Education Agency; and
- (25) an entity that contracts with a school district, open-enrollment charter school, or education shared services arrangement.

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

11-1 imposed under Paragraph (A), (B), or (C) is violated;

11-2 (6) an individual or an agency that has a specific
 11-3 agreement with a noncriminal justice agency to provide services
 11-4 related to the use of criminal history record information
 11-5 disseminated under this subchapter, if the agreement:

11-6 (A) specifically authorizes access to
 11-7 information;

11-8 (B) limits the use of information to the purposes
 11-9 for which it is given;

11-10 (C) ensures the security and confidentiality of
 11-11 the information; and

11-12 (D) provides for sanctions if a requirement
 11-13 imposed under Paragraph (A), (B), or (C) is violated;

11-14 (7) a county or district clerk's office; and

11-15 (8) [~~(7)~~] the Office of Court Administration of the
 11-16 Texas Judicial System.

11-17 (c) The department may disseminate criminal history record
 11-18 information under Subsection (b)(1) only for a criminal justice
 11-19 purpose. The department may disseminate criminal history record
 11-20 information under Subsection (b)(2) only for a purpose specified in
 11-21 the statute or order. The department may disseminate criminal
 11-22 history record information under Subsection (b)(4), (5), or (6) [~~or~~
 11-23 ~~(b)(5)~~] only for a purpose approved by the department and only under
 11-24 rules adopted by the department. The department may disseminate
 11-25 criminal history record information under Subsection (b)(7)
 11-26 [~~(b)(6)~~] only to the extent necessary for a county or district clerk
 11-27 to perform a duty imposed by law to collect and report criminal
 11-28 court disposition information. Criminal history record
 11-29 information disseminated to a clerk under Subsection (b)(7)
 11-30 [~~(b)(6)~~] may be used by the clerk only to ensure that information
 11-31 reported by the clerk to the department is accurate and complete.
 11-32 The dissemination of information to a clerk under Subsection (b)(7)
 11-33 [~~(b)(6)~~] does not affect the authority of the clerk to disclose or
 11-34 use information submitted by the clerk to the department. The
 11-35 department may disseminate criminal history record information
 11-36 under Subsection (b)(8) [~~(b)(7)~~] only to the extent necessary for
 11-37 the office of court administration to perform a duty imposed by law
 11-38 to compile court statistics or prepare reports. The office of court
 11-39 administration may disclose criminal history record information
 11-40 obtained from the department under Subsection (b)(8) [~~(b)(7)~~] in a
 11-41 statistic compiled by the office or a report prepared by the office,
 11-42 but only in a manner that does not identify the person who is the
 11-43 subject of the information.

11-44 SECTION 18. Subchapter F, Chapter 411, Government Code, is
 11-45 amended by adding Section 411.0845 to read as follows:

11-46 Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The
 11-47 department shall establish an electronic clearinghouse and
 11-48 subscription service to provide criminal history record
 11-49 information to a person entitled to receive criminal history record
 11-50 information under this subchapter.

11-51 (b) On receiving a request for criminal history record
 11-52 information from a person entitled to such information under this
 11-53 subchapter, the department shall provide through the electronic
 11-54 clearinghouse:

11-55 (1) the criminal history record information reported
 11-56 to the department or the Federal Bureau of Investigation relating
 11-57 to the individual who is the subject of the request; or

11-58 (2) a statement that the individual who is the subject
 11-59 of the request does not have any criminal history record
 11-60 information reported to the department or the Federal Bureau of
 11-61 Investigation.

11-62 (c) If the department provides information received from
 11-63 the Federal Bureau of Investigation, the department must include
 11-64 with the information the date the department received information
 11-65 from the Federal Bureau of Investigation.

11-66 (d) The department shall ensure that the information
 11-67 described by Subsection (b) is provided only to a person otherwise
 11-68 entitled to obtain criminal history record information under this
 11-69 subchapter. Information collected under this section is

12-1 confidential and is not subject to disclosure under Chapter 552.

12-2 (e) A person entitled to receive criminal history record
 12-3 information under this section must provide the department with the
 12-4 following information regarding the person who is the subject of
 12-5 the criminal history record information requested:

12-6 (1) the person's full name, date of birth, sex, Texas
 12-7 driver's license number or personal identification certificate
 12-8 number, and social security number;

12-9 (2) a recent electronic digital image photograph of
 12-10 the person and a complete set of the person's fingerprints as
 12-11 required by the department; and

12-12 (3) any other information required by the department.

12-13 (f) The department shall maintain an Internet website for
 12-14 the administration of the clearinghouse and an electronic
 12-15 subscription service to provide notice of updates to a person
 12-16 entitled to receive criminal history record information under this
 12-17 subchapter. The department shall update clearinghouse records as a
 12-18 result of any change in information discovered by the department.
 12-19 Within 48 hours after the department becomes aware that a person's
 12-20 criminal history record information in a clearinghouse record has
 12-21 changed, the department shall provide notice of the updated
 12-22 information to each subscriber to that specific record.

12-23 (g) A person who is the subject of the criminal history
 12-24 record information requested under this section must consent to the
 12-25 release of the information.

12-26 (h) The release under this section of any criminal history
 12-27 record information maintained by the Federal Bureau of
 12-28 Investigation is subject to federal law and regulations, federal
 12-29 executive orders, and federal policy.

12-30 (i) The department may charge a fee for subscription
 12-31 services to cover the costs of administering this section.

12-32 (j) A governmental agency may coordinate with the
 12-33 department regarding the collection of a fee for the criminal
 12-34 history record information through the fingerprinting fee
 12-35 collection process.

12-36 SECTION 19. Section 411.090, Government Code, is amended by
 12-37 adding Subsection (c) to read as follows:

12-38 (c) The department shall notify the State Board for Educator
 12-39 Certification of the arrest of any educator, as defined by Section
 12-40 5.001, Education Code, who has fingerprints on file with the
 12-41 department.

12-42 SECTION 20. Subchapter F, Chapter 411, Government Code, is
 12-43 amended by adding Section 411.0901 to read as follows:

12-44 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
 12-45 INFORMATION: TEXAS EDUCATION AGENCY. The Texas Education Agency
 12-46 is entitled to obtain criminal history record information
 12-47 maintained by the department about a person who:

12-48 (1) is employed or is an applicant for employment by a
 12-49 school district or open-enrollment charter school;

12-50 (2) is employed or is an applicant for employment by a
 12-51 shared services arrangement, if the employee's or applicant's
 12-52 duties are or will be performed on school property or at another
 12-53 location where students are regularly present; or

12-54 (3) is employed or is an applicant for employment by an
 12-55 entity that contracts with a school district, open-enrollment
 12-56 charter school, or shared services arrangement if:

12-57 (A) the employee or applicant has or will have
 12-58 continuing duties relating to the contracted services; and

12-59 (B) the employee or applicant has or will have
 12-60 direct contact with students.

12-61 SECTION 21. The heading to Section 411.097, Government
 12-62 Code, is amended to read as follows:

12-63 Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD
 12-64 INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES [SCHOOL
 12-65 DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION
 12-66 SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION
 12-67 SHARED SERVICES ARRANGEMENT].

12-68 SECTION 22. Subsections (a) and (b), Section 411.097,
 12-69 Government Code, are amended to read as follows:

13-1 (a) A school district, charter school, private school,
 13-2 regional education service center, commercial transportation
 13-3 company, or education shared services arrangement, or an entity
 13-4 that contracts to provide services to a school district, charter
 13-5 school, or shared services arrangement, is entitled to obtain from
 13-6 the department criminal history record information maintained by
 13-7 the department that the district, school, service center, ~~or~~
 13-8 shared services arrangement, or entity is required or authorized to
 13-9 obtain under Subchapter C, Chapter 22, Education Code, that relates
 13-10 to a person who is:

13-11 (1) an applicant for employment by the district,
 13-12 school, service center, or shared services arrangement; ~~or~~

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

13-20 (3) an employee of or applicant for employment by an
 13-21 entity that contracts to provide services to a school district,
 13-22 charter school, or shared services arrangement as provided by
 13-23 Section 22.0834 or 22.0835, Education Code.

13-24 (b) A school district, charter school, private school,
 13-25 regional education service center, or education shared services
 13-26 arrangement is entitled to obtain from the department ~~[, no more~~
 13-27 ~~than twice each year,]~~ criminal history record information
 13-28 maintained by the department that the district, school, service
 13-29 center, or shared services arrangement is required or authorized to
 13-30 obtain under Subchapter C, Chapter 22, Education Code, that relates
 13-31 to a person who is a volunteer, student teacher, or employee of the
 13-32 district, school, service center, or shared services arrangement.

13-33 SECTION 23. Section 730.007, Transportation Code, is
 13-34 amended by adding Subsection (f) to read as follows:

13-35 (f) Personal information obtained by an agency under
 13-36 Section 411.0845, Government Code, in connection with a motor
 13-37 vehicle record may be disclosed as provided by that section.

13-38 SECTION 24. Subsections (c) and (d), Section 22.083,
 13-39 Education Code, are repealed.

13-40 SECTION 25. Section 21.007, Education Code, as added by
 13-41 this Act, applies only to a report for misconduct filed with the
 13-42 State Board for Educator Certification on or after September 1,
 13-43 2007, regardless of whether the conduct or act that is the subject
 13-44 of the report occurred or was committed before, on, or after that
 13-45 date.

13-46 SECTION 26. The change in law made by Section 21.058,
 13-47 Education Code, as amended by this Act, and Subsection (c), Section
 13-48 22.085, Education Code, as amended by this Act, applies only to an
 13-49 offense for which a person receives deferred adjudication on or
 13-50 after the effective date of this Act. An offense for which a person
 13-51 receives deferred adjudication before the effective date of this
 13-52 Act is governed by the law in effect at the time the person received
 13-53 deferred adjudication, and the former law is continued in effect
 13-54 for that purpose.

13-55 SECTION 27. As soon as practicable after the effective date
 13-56 of this Act, the State Board for Educator Certification, the Texas
 13-57 Education Agency, a school district, an open-enrollment charter
 13-58 school, or a shared services arrangement shall, in the manner
 13-59 prescribed by Sections 22.0831, 22.0832, 22.0833, and 22.0837,
 13-60 Education Code, as added by this Act, begin obtaining national
 13-61 criminal history record information for employees and applicants
 13-62 for employment who are subject to a national criminal history
 13-63 record information review under those sections.

13-64 SECTION 28. As soon as practicable after the effective date
 13-65 of this Act, an entity that contracts with a school district,
 13-66 open-enrollment charter school, or shared services arrangement
 13-67 shall, in the manner prescribed by Sections 22.0834 and 22.0835,
 13-68 Education Code, as added by this Act, begin obtaining national
 13-69 criminal history record information for employees and applicants

14-1 for employment who are subject to a national criminal history
14-2 record information review under those sections.

14-3 SECTION 29. Beginning September 1, 2007, a school district,
14-4 open-enrollment charter school, or shared services arrangement
14-5 shall obtain, in compliance with Section 22.0836, Education Code,
14-6 as added by this Act, criminal history record information relating
14-7 to each person who is a student teacher or volunteer or has
14-8 indicated in writing an intention to serve as a volunteer with the
14-9 district, school, or shared services arrangement in any capacity.

14-10 SECTION 30. As soon as practicable after the effective date
14-11 of this Act, the Department of Public Safety of the State of Texas
14-12 shall establish a criminal history clearinghouse as required by
14-13 Section 411.0845, Government Code, as added by this Act.

14-14 SECTION 31. This Act takes effect immediately if it
14-15 receives a vote of two-thirds of all the members elected to each
14-16 house, as provided by Section 39, Article III, Texas Constitution.
14-17 If this Act does not receive the vote necessary for immediate
14-18 effect, this Act takes effect September 1, 2007.

14-19 * * * * *