

1-1 By: Patrick (Senate Sponsor - West) H.B. No. 3419  
1-2 (In the Senate - Received from the House May 18, 2009;  
1-3 May 19, 2009, read first time and referred to Committee on State  
1-4 Affairs; May 26, 2009, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 26, 2009, sent to printer.)

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

1-8 relating to the disclosure of criminal history record information  
1-9 regarding public school employees.

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

1-11 SECTION 1. Section 411.084, Government Code, is amended by  
1-12 amending Subsection (a) and adding Subsections (a-1) and (c) to  
1-13 read as follows:

1-14 (a) Criminal history record information obtained from the  
1-15 department under this subchapter, including any identification  
1-16 information that could reveal the identity of a person about whom  
1-17 criminal history record information is requested and information  
1-18 that directly or indirectly indicates or implies involvement of a  
1-19 person in the criminal justice system:

1-20 (1) is for the exclusive use of the authorized  
1-21 recipient of the information; and

1-22 (2) may be disclosed or used by the recipient only if,  
1-23 and only to the extent that, disclosure or use is authorized or  
1-24 directed by:

1-25 (A) this subchapter;

1-26 (B) another statute;

1-27 (C) a rule adopted under a statute; or

1-28 (D) an order of a court of competent  
1-29 jurisdiction.

1-30 (a-1) The term criminal history record information under  
1-31 Subsection (a) does not refer to any specific document produced to  
1-32 comply with this subchapter but to the information contained,  
1-33 wholly or partly, in a document's original form or any subsequent  
1-34 form or use.

1-35 (c) An agency or individual may not confirm the existence or  
1-36 nonexistence of criminal history record information to any person  
1-37 that is not eligible to receive the information.

1-38 SECTION 2. Sections 411.090(b) and (c), Government Code,  
1-39 are amended to read as follows:

1-40 (b) Criminal history record information obtained by the  
1-41 board in the original form or any subsequent form [~~under Subsection~~  
1-42 ~~(a)~~]:

1-43 (1) may be used only for a [~~any~~] purpose related to the  
1-44 issuance, denial, suspension, or cancellation of a certificate  
1-45 issued by the board;

1-46 (2) may not be released to any person except:

1-47 (A) the person who is the subject of the  
1-48 information;

1-49 (B) the Texas Education Agency;

1-50 (C) a local or regional educational entity as  
1-51 provided by Section 411.097; or

1-52 (D) by [~~on~~] court order [~~or with the consent of~~  
1-53 ~~the applicant for a certificate~~]; [~~and~~]

1-54 (3) is not subject to disclosure as provided by  
1-55 Chapter 552; and

1-56 (4) shall be destroyed by the board after the  
1-57 information is used for the authorized purposes.

1-58 (c) The department shall notify the State Board for Educator  
1-59 Certification of the arrest of any educator, as defined by Section  
1-60 5.001, Education Code, who has fingerprints on file with the  
1-61 department. Any record of the notification and any information  
1-62 contained in the notification is not subject to disclosure as  
1-63 provided by Chapter 552.

1-64 SECTION 3. Section 411.0901, Government Code, is amended to

2-1 read as follows:

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

2-6 (1) is employed or is an applicant for employment by a  
2-7 school district or open-enrollment charter school;

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

2-12 (3) is employed or is an applicant for employment by an  
2-13 entity that contracts with a school district, open-enrollment  
2-14 charter school, or shared services arrangement if:

2-15 (A) the employee or applicant has or will have  
2-16 continuing duties relating to the contracted services; and

2-17 (B) the employee or applicant has or will have  
2-18 direct contact with students.

2-19 (b) Criminal history record information obtained by the  
2-20 agency in the original form or any subsequent form:

2-21 (1) may be used only for a purpose authorized by the  
2-22 Education Code;

2-23 (2) may not be released to any person except:  
2-24 (A) the person who is the subject of the  
2-25 information;

2-26 (B) the State Board for Educator Certification;

2-27 (C) a local or regional educational entity as  
2-28 provided by Section 411.097; or

2-29 (D) by court order;

2-30 (3) is not subject to disclosure as provided by  
2-31 Chapter 552; and

2-32 (4) shall be destroyed by the agency after the  
2-33 information is used for the authorized purposes.

2-34 SECTION 4. Section 411.097, Government Code, is amended by  
2-35 amending Subsection (d) and adding Subsection (f) to read as  
2-36 follows:

2-37 (d) Criminal history record information obtained by a  
2-38 school district, charter school, private school, service center,  
2-39 commercial transportation company, or shared services arrangement  
2-40 in the original form or any subsequent form:

2-41 (1) ~~[under Subsection (a), (b), or (c)]~~ may not be  
2-42 released ~~[or disclosed]~~ to any person except:

2-43 (A) ~~[, other than]~~ the individual who is the  
2-44 subject of the information;

2-45 (B) ~~[,]~~ the Texas Education Agency;

2-46 (C) ~~[,]~~ the State Board for Educator  
2-47 Certification;

2-48 (D) ~~[, or]~~ the chief personnel officer of the  
2-49 transportation company, if the information is obtained under  
2-50 Subsection (a)(2); or

2-51 (E) by court order;

2-52 (2) is not subject to disclosure as provided by  
2-53 Chapter 552; and

2-54 (3) shall be destroyed by the school district, charter  
2-55 school, private school, service center, commercial transportation  
2-56 company, or shared services arrangement on the earlier of:

2-57 (A) the first anniversary of the date the  
2-58 information was originally obtained; or

2-59 (B) the date the information is used for the  
2-60 authorized purpose.

2-61 (f) An employee of a school district, charter school,  
2-62 private school, regional education service center, commercial  
2-63 transportation company, or education shared services arrangement  
2-64 or an entity that contracts to provide services to a school  
2-65 district, charter school, or shared services arrangement may  
2-66 request from the employer a copy of any criminal history record  
2-67 information relating to that employee that the employer has  
2-68 obtained as provided by Subchapter C, Chapter 22, Education Code.  
2-69 The employer may charge a fee to an employee requesting a copy of

3-1 the information in an amount not to exceed the actual cost of  
3-2 copying the requested criminal history record information.

3-3 SECTION 5. Subchapter C, Chapter 22, Education Code, is  
3-4 amended by adding Section 22.08391 to read as follows:

3-5 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)  
3-6 Information collected about a person to comply with this  
3-7 subchapter, including the person's name, address, phone number,  
3-8 social security number, driver's license number, other  
3-9 identification number, and fingerprint records:

3-10 (1) may not be released except:  
3-11 (A) to comply with this subchapter;  
3-12 (B) by court order; or  
3-13 (C) with the consent of the person who is the  
3-14 subject of the information;

3-15 (2) is not subject to disclosure as provided by  
3-16 Chapter 552, Government Code; and

3-17 (3) shall be destroyed by the requestor or any  
3-18 subsequent holder of the information not later than the first  
3-19 anniversary of the date the information is received.

3-20 (b) Any criminal history record information received by the  
3-21 State Board for Educator Certification as provided by this  
3-22 subchapter is subject to Section 411.090(b), Government Code.

3-23 (c) Any criminal history record information received by the  
3-24 agency as provided by this subchapter is subject to Section  
3-25 411.0901(b), Government Code.

3-26 (d) Any criminal history record information received by a  
3-27 school district, charter school, private school, regional  
3-28 education service center, commercial transportation company, or  
3-29 education shared services arrangement or an entity that contracts  
3-30 to provide services to a school district, charter school, or shared  
3-31 services arrangement as provided by this subchapter is subject to  
3-32 Section 411.097(d), Government Code.

3-33 SECTION 6. The change in law made by this Act applies to  
3-34 information collected, assembled, or maintained before, on, or  
3-35 after the effective date of this Act.

3-36 SECTION 7. This Act takes effect immediately if it receives  
3-37 a vote of two-thirds of all the members elected to each house, as  
3-38 provided by Section 39, Article III, Texas Constitution. If this  
3-39 Act does not receive the vote necessary for immediate effect, this  
3-40 Act takes effect September 1, 2009.

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