

By: West

S.B. No. 1858

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of criminal history record information regarding public school employees.

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

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

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

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

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

(A) this subchapter;

(B) another statute;

(C) a rule adopted under a statute; or

(D) an order of a court of competent jurisdiction.

(a-1) The term "criminal history record" information under

1 Subsection (a) does not refer to any specific document produced to
2 comply with this subchapter but to the information contained,
3 wholly or partly, in a document's original form or any subsequent
4 form or use.

5 (c) An agency or individual may not confirm the existence or
6 nonexistence of criminal history record information to any person
7 that is not eligible to receive the information.

8 SECTION 2. Subsections (b) and (c), Section 411.090,
9 Government Code, are amended to read as follows:

10 (b) Criminal history record information obtained by the
11 board in the original form or any subsequent form [~~under Subsection~~
12 ~~(a)~~]:

13 (1) may be used only for a [any] purpose related to the
14 issuance, denial, suspension, or cancellation of a certificate
15 issued by the board;

16 (2) may not be released to any person except:

17 (A) the person who is the subject of the
18 information;

19 (B) the Texas Education Agency;

20 (C) a local or regional educational entity as
21 provided by Section 411.097; or

22 (D) by [en] court order [or with the consent of
23 the applicant for a certificate]; [and]

24 (3) is not subject to disclosure as provided by
25 Chapter 552; and

26 (4) shall be destroyed by the board after the
27 information is used for the authorized purposes.

1 (c) The department shall notify the State Board for Educator
2 Certification of the arrest of any educator, as defined by Section
3 5.001, Education Code, who has fingerprints on file with the
4 department. Any record of the notification and any information
5 contained in the notification is not subject to disclosure as
6 provided by Chapter 552.

7 SECTION 3. Section 411.0901, Government Code, is amended to
8 read as follows:

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

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

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

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

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

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

26 (b) Criminal history record information obtained by the
27 agency in the original form or any subsequent form:

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

3 (2) may not be released to any person except:

4 (A) the person who is the subject of the
5 information;

6 (B) the State Board for Educator Certification;

7 (C) a local or regional educational entity as
8 provided by Section 411.097; or

9 (D) by court order;

10 (3) is not subject to disclosure as provided by
11 Chapter 552; and

12 (4) shall be destroyed by the agency after the
13 information is used for the authorized purposes.

14 SECTION 4. Section 411.097, Government Code, is amended by
15 amending Subsection (d) and adding Subsection (f) to read as
16 follows:

17 (d) Criminal history record information obtained by a
18 school district, charter school, private school, service center,
19 commercial transportation company, or shared services arrangement
20 in the original form or any subsequent form:

21 (1) [~~under Subsection (a), (b), or (c)~~] may not be
22 released [~~or disclosed~~] to any person except:

23 (A) [~~other than~~] the individual who is the
24 subject of the information;

25 (B) [~~7~~] the Texas Education Agency;

26 (C) [~~7~~] the State Board for Educator
27 Certification;

1 (D) [~~7-01~~] the chief personnel officer of the
2 transportation company, if the information is obtained under
3 Subsection (a)(2); or

4 (E) by court order;

5 (2) is not subject to disclosure as provided by
6 Chapter 552; and

7 (3) shall be destroyed by the school district, charter
8 school, private school, service center, commercial transportation
9 company, or shared services arrangement on the earlier of:

10 (A) the first anniversary of the date the
11 information was originally obtained; or

12 (B) the date the information is used for the
13 authorized purpose.

14 (f) An employee of a school district, charter school,
15 private school, regional education service center, commercial
16 transportation company, or education shared services arrangement
17 or an entity that contracts to provide services to a school
18 district, charter school, or shared services arrangement may
19 request from the employer a copy of any criminal history record
20 information relating to that employee that the employer has
21 obtained as provided by Subchapter C, Chapter 22, Education Code.
22 The employer may charge a fee to an employee requesting a copy of
23 the information in an amount not to exceed the actual cost of
24 copying the requested criminal history record information.

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

27 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION.

1 (a) Information collected about a person to comply with this
2 subchapter, including the person's name, address, phone number,
3 social security number, driver's license number, other
4 identification number, and fingerprint records:

5 (1) may not be released except:

6 (A) to comply with this subchapter;

7 (B) by court order; or

8 (C) with the consent of the person who is the
9 subject of the information;

10 (2) is not subject to disclosure as provided by
11 Chapter 552, Government Code; and

12 (3) shall be destroyed by the requestor or any
13 subsequent holder of the information not later than the first
14 anniversary of the date the information is received.

15 (b) Any criminal history record information received by the
16 State Board for Educator Certification as provided by this
17 subchapter is subject to Section 411.090(b), Government Code.

18 (c) Any criminal history record information received by the
19 agency as provided by this subchapter is subject to Section
20 411.0901(b), Government Code.

21 (d) Any criminal history record information received by a
22 school district, charter school, private school, regional
23 education service center, commercial transportation company, or
24 education shared services arrangement or an entity that contracts
25 to provide services to a school district, charter school, or shared
26 services arrangement as provided by this subchapter is subject to
27 Section 411.097(d), Government Code.

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

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