

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 411.082(2), Government Code, is amended to read as follows:

(2) "Criminal history record information" means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions, and any identification information that could reveal the identity of a person about whom criminal history record information is requested. The term does not refer to any specific document produced to comply with this chapter but to the information contained in a document, in whole or in part, in the document's original form or any subsequent form or use. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not directly or indirectly indicate or imply involvement of the person in the criminal justice system; or

(B) driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

SECTION 2. Sections 411.090(b) and (c), Government Code,

1 are amended to read as follows:

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

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

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

9 (A) the person who is the subject of the
10 information;

11 (B) the Texas Education Agency;

12 (C) a local or regional educational entity as
13 provided by Section 411.097; or

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

16 (3) is not subject to disclosure as provided by
17 Chapter 552; and

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

20 (c) The department shall notify the State Board for Educator
21 Certification of the arrest of any educator, as defined by Section
22 5.001, Education Code, who has fingerprints on file with the
23 department. Any record of the notification and any information
24 contained in the notification is criminal history record
25 information subject to Subsection (b).

26 SECTION 3. Section 411.0901, Government Code, is amended to
27 read as follows:

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

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

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

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

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

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

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

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

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

23 (A) the person who is the subject of the
24 information;

25 (B) the State Board for Educator Certification;

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

1 (D) by court order;

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

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

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

9 (d) Criminal history record information obtained by a
10 school district, charter school, private school, service center,
11 commercial transportation company, or shared services arrangement
12 in the original form or any subsequent form:

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

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

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

18 (C) [~~7~~] the State Board for Educator
19 Certification;

20 (D) [~~7 or~~] the chief personnel officer of the
21 transportation company, if the information is obtained under
22 Subsection (a)(2); or

23 (E) by court order;

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

26 (3) shall be destroyed by the school district, charter
27 school, private school, service center, commercial transportation

1 company, or shared services arrangement on the earlier of:

2 (A) the first anniversary of the date the
3 information was originally obtained; or

4 (B) the date the information is used for the
5 authorized purpose.

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

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

19 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)
20 Information collected about a person to comply with this
21 subchapter, including the person's name, address, phone number,
22 social security number, driver's license number, other
23 identification number, and fingerprint records:

24 (1) may not be released except:

25 (A) to comply with this subchapter;

26 (B) by court order; or

27 (C) with the consent of the person who is the

1 subject of the information;

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

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

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

10 (c) Any criminal history record information received by the
11 agency as provided by this subchapter is subject to Section
12 411.0901(b), Government Code.

13 (d) Any criminal history record information received by a
14 school district, charter school, private school, regional
15 education service center, commercial transportation company, or
16 education shared services arrangement or an entity that contracts
17 to provide services to a school district, charter school, or shared
18 services arrangement as provided by this subchapter is subject to
19 Section 411.097(d), Government Code.

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

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