

1-1 By: West S.B. No. 1858
1-2 (In the Senate - Filed March 11, 2009; March 24, 2009, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 28, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 28, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1858 By: Deuell

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

1-10 relating to the disclosure of criminal history record information
1-11 regarding public school employees.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 411.084, Government Code, is amended by
1-14 amending Subsection (a) and adding Subsections (a-1) and (c) to
1-15 read as follows:

1-16 (a) Criminal history record information obtained from the
1-17 department under this subchapter, including any identification
1-18 information that could reveal the identity of a person about whom
1-19 criminal history record information is requested and information
1-20 that directly or indirectly indicates or implies involvement of a
1-21 person in the criminal justice system:

1-22 (1) is for the exclusive use of the authorized
1-23 recipient of the information; and

1-24 (2) may be disclosed or used by the recipient only if,
1-25 and only to the extent that, disclosure or use is authorized or
1-26 directed by:

- 1-27 (A) this subchapter;
1-28 (B) another statute;
1-29 (C) a rule adopted under a statute; or
1-30 (D) an order of a court of competent
1-31 jurisdiction.

1-32 (a-1) The term "criminal history record" information under
1-33 Subsection (a) does not refer to any specific document produced to
1-34 comply with this subchapter but to the information contained,
1-35 wholly or partly, in a document's original form or any subsequent
1-36 form or use.

1-37 (c) An agency or individual may not confirm the existence or
1-38 nonexistence of criminal history record information to any person
1-39 that is not eligible to receive the information.

1-40 SECTION 2. Subsections (b) and (c), Section 411.090,
1-41 Government Code, are amended to read as follows:

1-42 (b) Criminal history record information obtained by the
1-43 board in the original form or any subsequent form [~~under Subsection~~
1-44 ~~(a)~~]:

1-45 (1) may be used only for a [~~any~~] purpose related to the
1-46 issuance, denial, suspension, or cancellation of a certificate
1-47 issued by the board;

1-48 (2) may not be released to any person except:
1-49 (A) the person who is the subject of the
1-50 information;

1-51 (B) the Texas Education Agency;

1-52 (C) a local or regional educational entity as
1-53 provided by Section 411.097; or

1-54 (D) by [~~on~~] court order [~~or with the consent of~~
1-55 ~~the applicant for a certificate~~]; [~~and~~]

1-56 (3) is not subject to disclosure as provided by
1-57 Chapter 552; and

1-58 (4) shall be destroyed by the board after the
1-59 information is used for the authorized purposes.

1-60 (c) The department shall notify the State Board for Educator
1-61 Certification of the arrest of any educator, as defined by Section
1-62 5.001, Education Code, who has fingerprints on file with the
1-63 department. Any record of the notification and any information

2-1 contained in the notification is not subject to disclosure as
 2-2 provided by Chapter 552.

2-3 SECTION 3. Section 411.0901, Government Code, is amended to
 2-4 read as follows:

2-5 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
 2-6 INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education
 2-7 Agency is entitled to obtain criminal history record information
 2-8 maintained by the department about a person who:

2-9 (1) is employed or is an applicant for employment by a
 2-10 school district or open-enrollment charter school;

2-11 (2) is employed or is an applicant for employment by a
 2-12 shared services arrangement, if the employee's or applicant's
 2-13 duties are or will be performed on school property or at another
 2-14 location where students are regularly present; or

2-15 (3) is employed or is an applicant for employment by an
 2-16 entity that contracts with a school district, open-enrollment
 2-17 charter school, or shared services arrangement if:

2-18 (A) the employee or applicant has or will have
 2-19 continuing duties relating to the contracted services; and

2-20 (B) the employee or applicant has or will have
 2-21 direct contact with students.

2-22 (b) Criminal history record information obtained by the
 2-23 agency in the original form or any subsequent form:

2-24 (1) may be used only for a purpose authorized by the
 2-25 Education Code;

2-26 (2) may not be released to any person except:

2-27 (A) the person who is the subject of the
 2-28 information;

2-29 (B) the State Board for Educator Certification;

2-30 (C) a local or regional educational entity as

2-31 provided by Section 411.097; or

2-32 (D) by court order;

2-33 (3) is not subject to disclosure as provided by
 2-34 Chapter 552; and

2-35 (4) shall be destroyed by the agency after the
 2-36 information is used for the authorized purposes.

2-37 SECTION 4. Section 411.097, Government Code, is amended by
 2-38 amending Subsection (d) and adding Subsection (f) to read as
 2-39 follows:

2-40 (d) Criminal history record information obtained by a
 2-41 school district, charter school, private school, service center,
 2-42 commercial transportation company, or shared services arrangement
 2-43 in the original form or any subsequent form:

2-44 (1) [under Subsection (a), (b), or (c)] may not be
 2-45 released [or disclosed] to any person except:

2-46 (A) [, other than] the individual who is the
 2-47 subject of the information;

2-48 (B) [,] the Texas Education Agency;

2-49 (C) [,] the State Board for Educator
 2-50 Certification;

2-51 (D) [, or] the chief personnel officer of the
 2-52 transportation company, if the information is obtained under

2-53 Subsection (a)(2); or

2-54 (E) by court order;

2-55 (2) is not subject to disclosure as provided by
 2-56 Chapter 552; and

2-57 (3) shall be destroyed by the school district, charter
 2-58 school, private school, service center, commercial transportation
 2-59 company, or shared services arrangement on the earlier of:

2-60 (A) the first anniversary of the date the
 2-61 information was originally obtained; or

2-62 (B) the date the information is used for the
 2-63 authorized purpose.

2-64 (f) An employee of a school district, charter school,
 2-65 private school, regional education service center, commercial
 2-66 transportation company, or education shared services arrangement
 2-67 or an entity that contracts to provide services to a school
 2-68 district, charter school, or shared services arrangement may
 2-69 request from the employer a copy of any criminal history record

3-1 information relating to that employee that the employer has
3-2 obtained as provided by Subchapter C, Chapter 22, Education Code.
3-3 The employer may charge a fee to an employee requesting a copy of
3-4 the information in an amount not to exceed the actual cost of
3-5 copying the requested criminal history record information.

3-6 SECTION 5. Subchapter C, Chapter 22, Education Code, is
3-7 amended by adding Section 22.08391 to read as follows:

3-8 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION.

3-9 (a) Information collected about a person to comply with this
3-10 subchapter, including the person's name, address, phone number,
3-11 social security number, driver's license number, other
3-12 identification number, and fingerprint records:

3-13 (1) may not be released except:
3-14 (A) to comply with this subchapter;
3-15 (B) by court order; or
3-16 (C) with the consent of the person who is the
3-17 subject of the information;

3-18 (2) is not subject to disclosure as provided by
3-19 Chapter 552, Government Code; and

3-20 (3) shall be destroyed by the requestor or any
3-21 subsequent holder of the information not later than the first
3-22 anniversary of the date the information is received.

3-23 (b) Any criminal history record information received by the
3-24 State Board for Educator Certification as provided by this
3-25 subchapter is subject to Section 411.090(b), Government Code.

3-26 (c) Any criminal history record information received by the
3-27 agency as provided by this subchapter is subject to Section
3-28 411.0901(b), Government Code.

3-29 (d) Any criminal history record information received by a
3-30 school district, charter school, private school, regional
3-31 education service center, commercial transportation company, or
3-32 education shared services arrangement or an entity that contracts
3-33 to provide services to a school district, charter school, or shared
3-34 services arrangement as provided by this subchapter is subject to
3-35 Section 411.097(d), Government Code.

3-36 SECTION 6. The change in law made by this Act applies to
3-37 information collected, assembled, or maintained before, on, or
3-38 after the effective date of this Act.

3-39 SECTION 7. This Act takes effect immediately if it receives
3-40 a vote of two-thirds of all the members elected to each house, as
3-41 provided by Section 39, Article III, Texas Constitution. If this
3-42 Act does not receive the vote necessary for immediate effect, this
3-43 Act takes effect September 1, 2009.

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