

By: Davis of Dallas

H.B. No. 3204

A BILL TO BE ENTITLED

AN ACT

relating to criminal history record and other information concerning certain school district employees.

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

SECTION 1. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.030 to read as follows:

Sec. 7.030. ACCESS TO INFORMATION CONCERNING EVALUATION OF PERFORMANCE. Notwithstanding Section 21.355, a school district or open-enrollment charter school shall, on the agency's request, provide to the agency a district or charter school document evaluating the performance of a teacher or administrator. The agency shall take appropriate measures to maintain confidentiality of the document.

SECTION 2. Section 12.1059, Education Code, is amended to read as follows:

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

SECTION 3. Section 21.006, Education Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (i) to

1 read as follows:

2 (a) In this section:

3 (1) "Abuse" [~~,"abuse"~~] has the meaning assigned by
4 Section 261.001, Family Code, and includes any sexual conduct
5 involving an educator and a student or minor.

6 (2) "Educator" means a person who holds a certificate
7 issued under Subchapter B, notwithstanding the definition provided
8 under Section 5.001.

9 (b) In addition to the reporting requirement under Section
10 261.101, Family Code, the superintendent or director of a school
11 district, open-enrollment charter school, regional education
12 service center, or shared services arrangement shall notify the
13 State Board for Educator Certification if the superintendent or
14 director has reasonable cause to believe that:

15 (1) an educator employed in any capacity by or seeking
16 employment with [~~by~~] the district, charter school, service center,
17 or shared services arrangement has a criminal record;

18 (2) an educator's employment at the district,
19 open-enrollment charter school, service center, or shared services
20 arrangement was terminated based on a determination that the
21 educator:

22 (A) abused or otherwise committed an unlawful act
23 with a student or minor;

24 (B) possessed, transferred, sold, or distributed
25 a controlled substance, as defined by Chapter 481, Health and
26 Safety Code, or by 21 U.S.C. Section 801 et seq. [~~and its~~
27 ~~subsequent amendments~~];

1 (C) illegally transferred, appropriated, or
2 expended funds or other property of the district, service center,
3 or shared services arrangement;

4 (D) attempted by fraudulent or unauthorized
5 means to obtain or alter a professional certificate or license for
6 the purpose of promotion or additional compensation; ~~or~~

7 (E) committed a criminal offense or any part of a
8 criminal offense on school property or at a school-sponsored event;
9 or

10 (F) solicited or engaged in sexual conduct or a
11 romantic relationship with a student or minor;

12 (3) the educator resigned after being informed of an
13 allegation ~~[and reasonable evidence supports a recommendation by~~
14 ~~the superintendent or director to terminate the educator based on a~~
15 ~~determination]~~ that the educator engaged in misconduct described by
16 Subdivision (2); or

17 (4) the educator engaged in conduct that violated the
18 assessment instrument security procedures established under
19 Section 39.0301.

20 (d) The superintendent or director shall notify the board of
21 trustees or governing body of the school district, open-enrollment
22 charter school, regional education service center, or shared
23 services arrangement and the educator of the filing of the report
24 required by Subsection (c).

25 (i) Each year, the superintendent or director shall certify
26 to the commissioner that the superintendent or director has
27 reported to the State Board for Educator Certification the

1 employment status of a person described by Subsection (b) as
2 required by that subsection. The annual certification must include
3 a statement that the school district, open-enrollment charter
4 school, regional education service center, or shared services
5 arrangement has adopted a policy:

6 (1) ensuring that:

7 (A) the required reports are made to the State
8 Board for Educator Certification; and

9 (B) notification is provided to the
10 superintendent or director of any resignation or other personnel
11 action required to be reported; and

12 (2) prohibiting any agreement not to make a required
13 report.

14 SECTION 4. Section 21.007, Education Code, is amended by
15 adding Subsection (g) to read as follows:

16 (g) Before employing a person who holds a certificate under
17 Subchapter B, a school district, open-enrollment charter school,
18 regional education service center, or shared services arrangement
19 shall examine any public certification records of the person posted
20 on an Internet website maintained by the board.

21 SECTION 5. Section 21.043, Education Code, is amended to
22 read as follows:

23 Sec. 21.043. ACCESS TO INFORMATION [~~PEIMS DATA~~]. (a) The
24 agency shall provide the board with access to data obtained under
25 the Public Education Information Management System (PEIMS).

26 (b) Notwithstanding Section 21.355, a school district or
27 open-enrollment charter school shall, on the board's request,

1 provide to the board a district or charter school document
2 evaluating the performance of a teacher or administrator. The board
3 shall take appropriate measures to maintain confidentiality of the
4 document.

5 SECTION 6. The heading to Subchapter C, Chapter 22,
6 Education Code, is amended to read as follows:

7 SUBCHAPTER C. CRIMINAL HISTORY AND CERTIFICATION RECORDS

8 SECTION 7. Section 22.0832, Education Code, is amended to
9 read as follows:

10 Sec. 22.0832. NATIONAL CRIMINAL HISTORY AND CERTIFICATION
11 RECORD INFORMATION REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER
12 SCHOOL EMPLOYEES. (a) The agency shall review:

13 (1) the national criminal history record information
14 of an employee of an open-enrollment charter school to whom Section
15 12.1059 applies in the same manner as the State Board for Educator
16 Certification reviews certified educators under Section 22.0831;
17 and

18 (2) any educator certification information available
19 to the agency concerning the employee.

20 (a-1) If the agency determines that, based on information
21 contained in an employee's criminal history record or certification
22 information, the employee would not be eligible for educator
23 certification under Subchapter B, Chapter 21, the agency shall
24 notify the open-enrollment charter school in writing that the
25 person may not be employed by the school or serve in a capacity
26 described by Section 12.1059.

27 (b) An open-enrollment charter school must provide the

1 agency with any information requested by the agency to enable the
2 agency to complete a review under Subsection (a). Failure of an
3 open-enrollment charter school to provide information under this
4 subsection or failure of the charter school to deny an employee
5 access to the school following the school's receipt of notice under
6 Subsection (a-1) is a material violation of the school's charter.

7 SECTION 8. Subchapter C, Chapter 22, Education Code, is
8 amended by adding Section 22.0851 to read as follows:

9 Sec. 22.0851. REPORTING TO STATE BOARD FOR EDUCATOR
10 CERTIFICATION. (a) The superintendent of a school district or
11 chief operating officer of an open-enrollment charter school shall:

12 (1) report to the State Board for Educator
13 Certification as required by the board the employment status of a
14 person subject to review under Section 22.0831, 22.0832, 22.0833,
15 or 22.0836; and

16 (2) certify to the commissioner each year compliance
17 with Subdivision (1).

18 (b) The annual certification under Subsection (a) must
19 include a statement that the district or charter school has adopted
20 a policy:

21 (1) ensuring that:

22 (A) the reports required under Subsection (a) are
23 made; and

24 (B) notification is provided to the
25 superintendent of a school district or chief operating officer of
26 an open-enrollment charter school of any resignation or other
27 personnel action required to be reported under Subsection (a); and

1 (2) prohibiting any agreement not to make a required
2 report.

3 (c) A superintendent of a school district or chief operating
4 officer of an open-enrollment charter school who in good faith and
5 while acting in an official capacity files a report with the State
6 Board for Educator Certification under this section is immune from
7 civil or criminal liability that might otherwise be incurred or
8 imposed.

9 SECTION 9. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2011.