

By: Nelson

S.B. No. 77

A BILL TO BE ENTITLED

AN ACT

relating to certain requirements for certain sponsoring organizations and other institutions participating in the Child and Adult Care Food Program.

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

SECTION 1. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1146 to read as follows:

Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGRICULTURE. (a) The Department of Agriculture is entitled to obtain criminal history record information maintained by the Department of Public Safety that relates to a person who is a principal of a nongovernmental entity that is a participant in or applicant for participation in the Child and Adult Care Food Program as provided by Section 33.0271(e), Human Resources Code.

(b) Criminal history record information obtained by the Department of Agriculture under this section may not be released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the person who is the subject of the information.

SECTION 2. Section 33.026, Human Resources Code, is amended by adding Subsection (d) to read as follows:

(d) For purposes of this section and Sections 33.027 and 33.0271, "sponsoring organization" has the meaning assigned by 7

1 C.F.R. Section 226.2.

2 SECTION 3. Chapter 33, Human Resources Code, is amended by
3 adding Section 33.0271 to read as follows:

4 Sec. 33.0271. CHILD AND ADULT CARE FOOD PROGRAM: PROGRAM
5 PARTICIPANT REQUIREMENTS. (a) In this section, "institution" and
6 "principal" have the meanings assigned by 7 C.F.R. Section 226.2.

7 (b) To the extent permitted under federal law, a sponsoring
8 organization shall maintain a performance bond in an amount
9 specified by department rule from a company holding a certificate
10 of authority as an acceptable surety on federal bonds from the
11 United States secretary of the treasury. To determine whether a
12 company holds a certificate of authority as an acceptable surety on
13 federal bonds, the department and a sponsoring organization may
14 rely on the list published by the United States Department of the
15 Treasury in accordance with 31 C.F.R. Section 223.16.

16 (c) To the extent permitted under federal law, on
17 application for or renewal of participation in the Child and Adult
18 Care Food Program, a nongovernmental entity applying to participate
19 or to renew participation in the program as a sponsoring
20 organization or other institution must submit to the department the
21 following with respect to each of the entity's principals for use in
22 conducting a background and criminal history check:

23 (1) a copy of a government-issued form of
24 identification of the principal, which may include a copy of:

25 (A) a driver's license issued by this state or
26 another state;

27 (B) an identification card issued by this state,

1 another state, or the federal government;

2 (C) a passport; or

3 (D) another form of identification approved by
4 the department; and

5 (2) proof of the principal's residential mailing
6 address, which may include:

7 (A) official mail sent to the principal's address
8 from a utility provider, governmental agency, or financial
9 institution;

10 (B) a residential lease executed by the
11 principal; or

12 (C) any other form of proof approved by the
13 department.

14 (d) If there is a change in a principal or the residential
15 mailing address of a principal of a nongovernmental entity
16 participating in the Child and Adult Care Food Program as a
17 sponsoring organization or other institution, the entity must
18 submit to the department the same information required under
19 Subsection (c) with respect to the principal for use in conducting a
20 background and criminal history check.

21 (e) The department may conduct a background and criminal
22 history check on each principal of an entity subject to this section
23 using:

24 (1) the information provided under Subsection (c) or
25 (d), as applicable; and

26 (2) the information made available by the Department
27 of Public Safety under Section 411.1146, Government Code, or by the

1 Federal Bureau of Investigation or other criminal justice agency
2 under Section 411.087, Government Code.

3 (f) If the background and criminal history check authorized
4 under Subsection (e) using information provided under Subsection
5 (c) reveals that an entity knowingly falsified statements contained
6 in the application, the department may refer that matter to an
7 appropriate prosecuting attorney for criminal prosecution.

8 (g) If a background and criminal history check authorized
9 under Subsection (e) reveals that the principal of an entity that is
10 an applicant for or participant in the Child and Adult Care Food
11 Program has been convicted of fraud, violating an antitrust law,
12 embezzlement, theft, forgery, bribery, falsification or
13 destruction of records, making false statements, receiving stolen
14 property, making false claims, obstructing justice, or any other
15 criminal offense that indicates a lack of business integrity as
16 determined by the department, the department:

17 (1) shall deny the entity's application for
18 participation in the program; or

19 (2) may, at the department's discretion, revoke the
20 entity's authority to participate in the program.

21 (h) The executive commissioner by rule may establish
22 procedures that would allow an entity that had the entity's
23 application to participate in the Child and Adult Care Food Program
24 denied or authority to participate in the program revoked under
25 Subsection (g) to appeal the department's determination under that
26 subsection.

27 SECTION 4. This Act takes effect September 1, 2011.