

By: Nelson

S.B. No. 77

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain requirements for sponsoring organizations and  
3 other institutions participating in the Child and Adult Care Food  
4 Program.

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

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

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

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

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

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

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

10       (c) To the extent permitted under federal law, on  
11 application for participation in the Child and Adult Care Food  
12 Program, a person applying to participate in the program as a  
13 sponsoring organization or other institution must submit to the  
14 department the following with respect to each of the applicant's  
15 principals for use in conducting a background and criminal history  
16 check:

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

19                        (A) a driver's license issued by this state or  
20 another state;

21                        (B) an identification card issued by this state,  
22 another state, or the federal government;

23                        (C) a passport; or

24                        (D) another form of identification approved by  
25 the department; and

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

1           (A) official mail sent to the principal's address  
2 from a utility provider, governmental agency, or financial  
3 institution;

4           (B) a residential lease executed by the  
5 principal; or

6           (C) any other form of proof approved by the  
7 department.

8           (d) The department may conduct a background and criminal  
9 history check on each principal of an applicant for participation  
10 in the Child and Adult Food Care Program as a sponsoring  
11 organization or other institution using:

12                 (1) the information provided under Subsection (c); and

13                 (2) the information made available by the Department  
14 of Public Safety under Section 411.1146, Government Code, or by the  
15 Federal Bureau of Investigation or other criminal justice agency  
16 under Section 411.087, Government Code.

17           (e) If the background and criminal history check authorized  
18 under Subsection (d) reveals that an applicant knowingly falsified  
19 statements contained in the application, the department may refer  
20 that matter to an appropriate prosecuting attorney for criminal  
21 prosecution.

22           (f) The department shall deny an application for  
23 participation in the Child and Adult Care Food Program if a  
24 background and criminal history check authorized under Subsection  
25 (d) reveals that a principal of the applicant has been convicted of  
26 fraud, violating an antitrust law, embezzlement, theft, forgery,  
27 bribery, falsification or destruction of records, making false

1 statements, receiving stolen property, making false claims,  
2 obstructing justice, or any other criminal offense that indicates a  
3 lack of business integrity as determined by the department.

4         SECTION 3. The changes in law made by this Act apply only to  
5 a person who submits an application to the Department of  
6 Agriculture to participate in the Child and Adult Care Food Program  
7 as a sponsoring organization or other institution on or after the  
8 effective date of this Act. A person who submits an application  
9 before the effective date of this Act is governed by the law in  
10 effect on the date the application was submitted, and the former law  
11 is continued for that purpose.

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