

1-1 By: Nelson S.B. No. 77
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 14, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 14, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 77 By: Nelson

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

1-10 relating to certain requirements for certain sponsoring
1-11 organizations and other institutions participating in the Child and
1-12 Adult Care Food Program.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter F, Chapter 411, Government Code, is
1-15 amended by adding Section 411.1146 to read as follows:

1-16 Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD
1-17 INFORMATION: DEPARTMENT OF AGRICULTURE. (a) The Department of
1-18 Agriculture is entitled to obtain criminal history record
1-19 information maintained by the Department of Public Safety that
1-20 relates to a person who is a principal of a nongovernmental entity
1-21 that is a participant in or applicant for participation in the Child
1-22 and Adult Care Food Program as provided by Section 33.0271(e),
1-23 Human Resources Code.

1-24 (b) Criminal history record information obtained by the
1-25 Department of Agriculture under this section may not be released or
1-26 disclosed to any person except in a criminal proceeding, in an
1-27 administrative proceeding, on court order, or with the consent of
1-28 the person who is the subject of the information.

1-29 SECTION 2. Section 33.026, Human Resources Code, is amended
1-30 by adding Subsection (d) to read as follows:

1-31 (d) For purposes of this section and Sections 33.027 and
1-32 33.0271, "sponsoring organization" has the meaning assigned by 7
1-33 C.F.R. Section 226.2.

1-34 SECTION 3. Chapter 33, Human Resources Code, is amended by
1-35 adding Section 33.0271 to read as follows:

1-36 Sec. 33.0271. CHILD AND ADULT CARE FOOD PROGRAM: PROGRAM
1-37 PARTICIPANT REQUIREMENTS. (a) In this section, "institution" and
1-38 "principal" have the meanings assigned by 7 C.F.R. Section 226.2.

1-39 (b) To the extent permitted under federal law, a sponsoring
1-40 organization shall maintain a performance bond in an amount
1-41 specified by department rule from a company holding a certificate
1-42 of authority as an acceptable surety on federal bonds from the
1-43 United States secretary of the treasury. To determine whether a
1-44 company holds a certificate of authority as an acceptable surety on
1-45 federal bonds, the department and a sponsoring organization may
1-46 rely on the list published by the United States Department of the
1-47 Treasury in accordance with 31 C.F.R. Section 223.16.

1-48 (c) To the extent permitted under federal law, on
1-49 application for or renewal of participation in the Child and Adult
1-50 Care Food Program, a nongovernmental entity applying to participate
1-51 or to renew participation in the program as a sponsoring
1-52 organization or other institution must submit to the department the
1-53 following with respect to each of the entity's principals for use in
1-54 conducting a background and criminal history check:

1-55 (1) a copy of a government-issued form of
1-56 identification of the principal, which may include a copy of:

1-57 (A) a driver's license issued by this state or
1-58 another state;

1-59 (B) an identification card issued by this state,
1-60 another state, or the federal government;

1-61 (C) a passport; or

1-62 (D) another form of identification approved by
1-63 the department; and

2-1 (2) proof of the principal's residential mailing
2-2 address, which may include:

2-3 (A) official mail sent to the principal's address
2-4 from a utility provider, governmental agency, or financial
2-5 institution;

2-6 (B) a residential lease executed by the
2-7 principal; or

2-8 (C) any other form of proof approved by the
2-9 department.

2-10 (d) If there is a change in a principal or the residential
2-11 mailing address of a principal of a nongovernmental entity
2-12 participating in the Child and Adult Care Food Program as a
2-13 sponsoring organization or other institution, the entity must
2-14 submit to the department the same information required under
2-15 Subsection (c) with respect to the principal for use in conducting a
2-16 background and criminal history check.

2-17 (e) The department may conduct a background and criminal
2-18 history check on each principal of an entity subject to this section
2-19 using:

2-20 (1) the information provided under Subsection (c) or
2-21 (d), as applicable; and

2-22 (2) the information made available by the Department
2-23 of Public Safety under Section 411.1146, Government Code, or by the
2-24 Federal Bureau of Investigation or other criminal justice agency
2-25 under Section 411.087, Government Code.

2-26 (f) If the background and criminal history check authorized
2-27 under Subsection (e) using information provided under Subsection
2-28 (c) reveals that an entity knowingly falsified statements contained
2-29 in the application, the department may refer that matter to an
2-30 appropriate prosecuting attorney for criminal prosecution.

2-31 (g) If a background and criminal history check authorized
2-32 under Subsection (e) reveals that the principal of an entity that is
2-33 an applicant for or participant in the Child and Adult Care Food
2-34 Program has been convicted of fraud, violating an antitrust law,
2-35 embezzlement, theft, forgery, bribery, falsification or
2-36 destruction of records, making false statements, receiving stolen
2-37 property, making false claims, obstructing justice, or any other
2-38 criminal offense that indicates a lack of business integrity as
2-39 determined by the department, the department:

2-40 (1) shall deny the entity's application for
2-41 participation in the program; or

2-42 (2) may, at the department's discretion, revoke the
2-43 entity's authority to participate in the program.

2-44 (h) The executive commissioner by rule may establish
2-45 procedures that would allow an entity that had the entity's
2-46 application to participate in the Child and Adult Care Food Program
2-47 denied or authority to participate in the program revoked under
2-48 Subsection (g) to appeal the department's determination under that
2-49 subsection.

2-50 SECTION 4. This Act takes effect September 1, 2011.

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