

By: Bettencourt

S.B. No. 1473

A BILL TO BE ENTITLED

AN ACT

1
2 relating to criminal history record information and certain
3 registry information accessible to certain educational and
4 child-care entities and information required for employment in
5 certain child-care facilities.

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

7 SECTION 1. Section 22.0825(b), Education Code, is amended
8 to read as follows:

9 (b) The agency shall subscribe to the criminal history
10 clearinghouse as provided by Section 411.0845, Government Code, and
11 may obtain from any law enforcement or criminal justice agency all
12 criminal history record information and all records contained in
13 any closed criminal investigation file that relate to a specific
14 applicant for employment or current or former employee of a school
15 district, district of innovation, open-enrollment charter school,
16 other charter entity, private school that is accredited by an
17 accrediting agency that is a member of the Texas Private School
18 Accreditation Commission, regional education service center, or
19 shared services arrangement.

20 SECTION 2. Section 22.083, Education Code, is amended by
21 adding Subsection (b-1) to read as follows:

22 (b-1) A private school that is accredited by an accrediting
23 agency that is a member of the Texas Private School Accreditation
24 Commission may obtain the criminal history record information

1 described by Subsection (b) from the agency.

2 SECTION 3. Section 22.092(d), Education Code, is amended to
3 read as follows:

4 (d) The agency shall provide equivalent access to the
5 registry maintained under this section to:

6 (1) private schools;

7 (2) public schools; ~~and~~

8 (3) child-care facilities and family homes licensed,
9 certified, registered, or listed under Chapter 42, Human Resources
10 Code; and

11 (4) nonprofit teacher organizations approved by the
12 commissioner for the purpose of participating in the tutoring
13 program established under Section 33.913.

14 SECTION 4. Section 261.002, Family Code, is amended by
15 amending Subsection (b) and adding Subsections (d), (e), and (f) to
16 read as follows:

17 (b) The executive commissioner shall adopt rules necessary
18 to carry out this section. The rules shall:

19 (1) prohibit the department from making a finding of
20 abuse or neglect against a person in a case in which the department
21 is named managing conservator of a child who has a severe emotional
22 disturbance only because the child's family is unable to obtain
23 mental health services for the child;

24 (2) establish guidelines for reviewing the records in
25 the registry and removing those records in which the department was
26 named managing conservator of a child who has a severe emotional
27 disturbance only because the child's family was unable to obtain

1 mental health services for the child;

2 (3) require the department to remove a person's name
3 from the central registry maintained under this section not later
4 than the 10th business day after the date the department receives
5 notice that a finding of abuse and neglect against the person is
6 overturned in:

7 (A) an administrative review or an appeal of the
8 review conducted under Section 261.309(c);

9 (B) a review or an appeal of the review conducted
10 by the office of consumer affairs of the department; or

11 (C) a hearing or an appeal conducted by the State
12 Office of Administrative Hearings; ~~and~~

13 (4) require the department to update any relevant
14 department files to reflect an overturned finding of abuse or
15 neglect against a person not later than the 10th business day after
16 the date the finding is overturned in a review, hearing, or appeal
17 described by Subdivision (3); and

18 (5) establish guidelines for providing access to the
19 registry to entities as required by Subsection (d).

20 (d) The department shall provide access to the central
21 registry maintained under this section to:

22 (1) a facility, home, or agency:

23 (A) licensed, certified, registered, or listed
24 under Chapter 42, Human Resources Code; or

25 (B) exempt from the licensing requirements under
26 Section 42.041(b), Human Resources Code;

27 (2) an independent school district;

1 (3) an open-enrollment charter school; and

2 (4) a private school accredited by an organization
3 recognized by:

4 (A) the Texas Education Agency; or

5 (B) the Texas Private School Accreditation
6 Commission.

7 (e) A state agency that maintains records of abuse and
8 neglect findings, including the Texas Education Agency, shall:

9 (1) provide a copy of the records to the department not
10 later than the 10th day after the date the state agency receives the
11 records; or

12 (2) if the state agency makes a finding of abuse or
13 neglect, provide a copy of the record to the department not later
14 than the 10th day after the date the agency makes the finding.

15 (f) The department shall include information from a record
16 provided under Subsection (e) in the central registry under this
17 section.

18 SECTION 5. Subchapter C, Chapter 42, Human Resources Code,
19 is amended by adding Section 42.0563 to read as follows:

20 Sec. 42.0563. PRE-EMPLOYMENT AFFIDAVIT. (a) An applicant
21 for a position with a child-care facility must submit, using a form
22 adopted by the department, a pre-employment affidavit disclosing
23 whether the applicant has ever been charged with, adjudicated for,
24 or convicted of having an inappropriate relationship with a minor.

25 (b) An applicant who answers affirmatively concerning an
26 inappropriate relationship with a minor must disclose in the
27 affidavit all relevant facts pertaining to the charge,

1 adjudication, or conviction, including, for a charge, whether the
2 charge was determined to be true or false.

3 (c) An applicant is not precluded from being employed based
4 on a disclosed charge if the employing entity determines based on
5 the information disclosed in the affidavit that the charge was
6 false.

7 (d) A determination that an employee failed to disclose
8 information required to be disclosed by an applicant under this
9 section is grounds for termination of employment.

10 SECTION 6. Section 411.0901(a), Government Code, is amended
11 to read as follows:

12 (a) The Texas Education Agency is entitled to obtain
13 criminal history record information maintained by the department
14 about a person who:

15 (1) is employed or is an applicant for employment by a
16 school district, ~~or~~ open-enrollment charter school, or private
17 school that is accredited by an accrediting agency that is a member
18 of the Texas Private School Accreditation Commission;

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

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

26 (A) the employee or applicant has or will have
27 continuing duties relating to the contracted services; and

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

3 SECTION 7. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2023.