

AN ACT

relating to the disclosure or dissemination of criminal history record information, child abuse investigation reports, and school district audit working papers for certain purposes, including the certification and employment of educators and other public school employees who engage in certain misconduct.

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

SECTION 1. Subchapter B, Chapter 8, Education Code, is amended by adding Section 8.057 to read as follows:

Sec. 8.057. ASSISTANCE WITH CRIMINAL HISTORY RECORD INFORMATION. The agency may require a regional education service center to assist in collecting information needed for a criminal history record information review under Subchapter C, Chapter 22.

SECTION 2. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1059 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 information as provided by Section 22.0832.

SECTION 3. Subchapter A, Chapter 21, Education Code, is amended by adding Section 21.007 to read as follows:

Sec. 21.007. NOTICE ON CERTIFICATION RECORD OF ALLEGED

1 MISCONDUCT. (a) In this section, "board" means the State Board
2 for Educator Certification.

3 (b) The board shall adopt a procedure for placing a notice
4 of alleged misconduct on an educator's public certification
5 records. The procedure adopted by the board must provide for
6 immediate placement of a notice of alleged misconduct on an
7 educator's public certification records if the alleged misconduct
8 presents a risk to the health, safety, or welfare of a student or
9 minor as determined by the board.

10 (c) The board must notify an educator in writing when
11 placing a notice of an alleged incident of misconduct on the public
12 certification records of the educator.

13 (d) The board must provide an opportunity for an educator to
14 show cause why the notice should not be placed on the educator's
15 public certification records. The board shall propose rules
16 establishing the length of time that a notice may remain on the
17 educator's public certification records before the board must:

18 (1) initiate a proceeding to impose a sanction on the
19 educator on the basis of the alleged misconduct; or

20 (2) remove the notice from the educator's public
21 certification records.

22 (e) If it is determined that the educator has not engaged in
23 the alleged incident of misconduct, the board shall immediately
24 remove the notice from the educator's public certification records.

25 (f) The board shall propose rules necessary to administer
26 this section.

27 SECTION 4. Section 21.048, Education Code, is amended by

1 adding Subsection (c-1) to read as follows:

2 (c-1) The results of an examination administered under this
3 section are confidential and are not subject to disclosure under
4 Chapter 552, Government Code, unless:

5 (1) the disclosure is regarding notification to a
6 parent of the assignment of an uncertified teacher to a classroom as
7 required by Section 21.057; or

8 (2) the educator has failed the examination more than
9 five times.

10 SECTION 5. Subchapter B, Chapter 21, Education Code, is
11 amended by adding Section 21.060 to read as follows:

12 Sec. 21.060. ELIGIBILITY OF PERSONS CONVICTED OF CERTAIN
13 OFFENSES. The board may suspend or revoke the certificate or permit
14 held by a person under this subchapter, impose other sanctions
15 against the person, or refuse to issue a certificate or permit to a
16 person under this subchapter if the person has been convicted of a
17 felony or misdemeanor offense relating to the duties and
18 responsibilities of the education profession, including:

19 (1) an offense involving moral turpitude;

20 (2) an offense involving a form of sexual or physical
21 abuse of a minor or student or other illegal conduct in which the
22 victim is a minor or student;

23 (3) a felony offense involving the possession,
24 transfer, sale, or distribution of or conspiracy to possess,
25 transfer, sell, or distribute a controlled substance, as defined by
26 Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et
27 seq.;

1 (4) an offense involving the illegal transfer,
2 appropriation, or use of school district funds or other district
3 property; or

4 (5) an offense involving an attempt by fraudulent or
5 unauthorized means to obtain or alter a professional certificate or
6 license issued under this subchapter.

7 SECTION 6. Sections 22.081 and 22.082, Education Code, are
8 amended to read as follows:

9 Sec. 22.081. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

10 (1) "Department" means the Department of Public
11 Safety.

12 (2) "National criminal history record information"
13 means criminal history record information obtained from the
14 department under Subchapter F, Chapter 411, Government Code, and
15 from the Federal Bureau of Investigation under Section 411.087,
16 Government Code.

17 (3) "Private [~~,"private]~~ school" means a school that:

18 (A) [(1)] offers a course of instruction for
19 students in one or more grades from prekindergarten through grade
20 12; and

21 (B) [(2)] is not operated by a governmental
22 entity.

23 Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE
24 BOARD FOR EDUCATOR CERTIFICATION. The State Board for Educator
25 Certification shall subscribe to the criminal history
26 clearinghouse as provided by Section 411.0845, Government Code, and
27 may obtain from any law enforcement or criminal justice agency all

1 criminal history record information and all records contained in
2 any closed criminal investigation file that relate [~~relates~~] to a
3 specific [~~an~~] applicant for or holder of a certificate issued under
4 Subchapter B, Chapter 21.

5 SECTION 7. The heading to Section 22.083, Education Code,
6 is amended to read as follows:

7 Sec. 22.083. ACCESS TO CRIMINAL HISTORY RECORDS OF
8 EMPLOYEES BY LOCAL AND REGIONAL EDUCATION AUTHORITIES.

9 SECTION 8. Section 22.083, Education Code, is amended by
10 amending Subsections (a) and (b) and adding Subsections (a-1) and
11 (a-2) to read as follows:

12 (a) A school district, open-enrollment charter school,
13 [~~private school, regional education service center,~~] or shared
14 services arrangement shall [~~may~~] obtain [~~from any law enforcement~~
15 ~~or criminal justice agency all~~] criminal history record information
16 that relates to a person who is not subject to a national criminal
17 history record information review under this subchapter and who is
18 an employee of:

19 (1) [~~whom~~] the district or [~~7~~] school [~~, service center,~~
20 ~~or shared services arrangement intends to employ in any capacity];~~
21 or

22 (2) a shared services arrangement, if the employee's
23 duties are performed on school property or at another location
24 where students are regularly present [~~who has indicated, in~~
25 ~~writing, an intention to serve as a volunteer with the district,~~
26 ~~school, service center, or shared services arrangement].~~

27 (a-1) A school district, open-enrollment charter school, or

1 shared services arrangement may obtain the criminal history record
2 information from:

- 3 (1) the department;
4 (2) a law enforcement or criminal justice agency; or
5 (3) a private entity that is a consumer reporting
6 agency governed by the Fair Credit Reporting Act (15 U.S.C. Section
7 1681 et seq.).

8 (a-2) A shared services arrangement may obtain from any law
9 enforcement or criminal justice agency all criminal history record
10 information that relates to a person who is not subject to
11 Subsection (a) and whom the shared services arrangement intends to
12 employ in any capacity.

13 (b) A private school or regional education service center
14 may [~~An open-enrollment charter school shall~~] obtain from any law
15 enforcement or criminal justice agency all criminal history record
16 information that relates to:

17 (1) a person whom the school or service center intends
18 to employ in any capacity; or

19 (2) an employee of or applicant for employment by a
20 person that contracts with the school or service center to provide
21 services, if:

22 (A) the employee or applicant has or will have
23 continuing duties related to the contracted services; and

24 (B) the employee or applicant has or will have
25 direct contact with students [~~a person who has indicated, in~~
26 ~~writing, an intention to serve as a volunteer with the school~~].

27 SECTION 9. Subchapter C, Chapter 22, Education Code, is

1 amended by adding Sections 22.0831 through 22.0837 to read as
2 follows:

3 Sec. 22.0831. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
4 REVIEW OF CERTIFIED EDUCATORS. (a) In this section, "board" means
5 the State Board for Educator Certification.

6 (b) This section applies to a person who is an applicant for
7 or holder of a certificate under Subchapter B, Chapter 21, and who
8 is employed by or is an applicant for employment by a school
9 district, open-enrollment charter school, or shared services
10 arrangement.

11 (c) The board shall review the national criminal history
12 record information of a person who has not previously submitted
13 fingerprints to the department or been subject to a national
14 criminal history record information review.

15 (d) The board shall place an educator's certificate on
16 inactive status for failure to comply with a deadline for
17 submitting information required under this section.

18 (e) The board may allow a person who is applying for a
19 certificate under Subchapter B, Chapter 21, and who currently
20 resides in another state to submit the person's fingerprints and
21 other required information in a manner that does not impose an undue
22 hardship on the person.

23 (f) The board may propose rules to implement this section,
24 including rules establishing:

25 (1) deadlines for a person to submit fingerprints and
26 photographs in compliance with this section; and

27 (2) sanctions for a person's failure to comply with the

1 requirements of this section, including suspension or revocation of
2 a certificate or refusal to issue a certificate.

3 (g) The board by rule shall establish a schedule for
4 obtaining and reviewing the information a certified educator must
5 provide the board under this section. Not later than September 1,
6 2011, the board must obtain all national criminal history record
7 information on all certified educators. This subsection expires
8 October 1, 2011.

9 Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
10 REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL EMPLOYEES.

11 (a) The agency shall review the national criminal history record
12 information of an employee of an open-enrollment charter school to
13 whom Section 12.1059 applies in the same manner as the State Board
14 for Educator Certification reviews certified educators under
15 Section 22.0831. If the agency determines that, based on
16 information contained in an employee's criminal history record
17 information, the employee would not be eligible for educator
18 certification under Subchapter B, Chapter 21, the agency shall
19 notify the open-enrollment charter school in writing that the
20 person may not be employed by the school or serve in a capacity
21 described by Section 12.1059.

22 (b) An open-enrollment charter school must provide the
23 agency with any information requested by the agency to enable the
24 agency to complete a review under Subsection (a). Failure of an
25 open-enrollment charter school to provide information under this
26 subsection is a material violation of the school's charter.

27 Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION

1 REVIEW OF NONCERTIFIED EMPLOYEES. (a) This section applies to a
2 person who is not an applicant for or holder of a certificate under
3 Subchapter B, Chapter 21, and who on or after January 1, 2008, is
4 offered employment by:

5 (1) a school district or open-enrollment charter
6 school; or

7 (2) a shared services arrangement, if the employee's
8 or applicant's duties are or will be performed on school property or
9 at another location where students are regularly present.

10 (b) A person to whom this section applies must submit to a
11 national criminal history record information review under this
12 section before being employed or serving in a capacity described by
13 Subsection (a).

14 (c) Before or immediately after employing or securing the
15 services of a person to whom this section applies, a school
16 district, open-enrollment charter school, or shared services
17 arrangement shall send or ensure that the person sends to the
18 department information that is required by the department for
19 obtaining national criminal history record information, which may
20 include fingerprints and photographs.

21 (d) The department shall obtain the person's national
22 criminal history record information and report the results through
23 the criminal history clearinghouse as provided by Section 411.0845,
24 Government Code.

25 (e) Each school district, open-enrollment charter school,
26 and shared services arrangement shall obtain all criminal history
27 record information that relates to a person to whom this section

1 applies through the criminal history clearinghouse as provided by
2 Section 411.0845, Government Code, and shall subscribe to the
3 criminal history record information of the person.

4 (f) The school district, open-enrollment charter school, or
5 shared services arrangement may require a person to pay any fees
6 related to obtaining criminal history record information under this
7 section.

8 (g) A school district, open-enrollment charter school, or
9 shared services arrangement shall provide the agency with the name
10 of a person to whom this section applies. The agency shall obtain
11 all criminal history record information of the person through the
12 criminal history clearinghouse as provided by Section 411.0845,
13 Government Code. The agency shall examine the criminal history
14 record information of the person and notify the district, school,
15 or shared services arrangement if the person may not be hired or
16 must be discharged as provided by Section 22.085.

17 (h) The agency, the State Board for Educator Certification,
18 school districts, open-enrollment charter schools, and shared
19 services arrangements may coordinate as necessary to ensure that
20 criminal history reviews authorized or required under this
21 subchapter are not unnecessarily duplicated.

22 (i) The department in coordination with the commissioner
23 may adopt rules necessary to implement this section.

24 Sec. 22.0834. CRIMINAL HISTORY RECORD INFORMATION REVIEW
25 OF CERTAIN CONTRACT EMPLOYEES. (a) This subsection applies to a
26 person who is not an applicant for or holder of a certificate under
27 Subchapter B, Chapter 21, and who on or after January 1, 2008, is

1 offered employment by an entity that contracts with a school
2 district, open-enrollment charter school, or shared services
3 arrangement to provide services, if:

4 (1) the employee or applicant has or will have
5 continuing duties related to the contracted services; and

6 (2) the employee or applicant has or will have direct
7 contact with students.

8 (b) A person to whom Subsection (a) applies must submit to a
9 national criminal history record information review under this
10 section before being employed or serving in a capacity described by
11 that subsection.

12 (c) Before or immediately after employing or securing the
13 services of a person to whom Subsection (a) applies, the entity
14 contracting with a school district, open-enrollment charter
15 school, or shared services arrangement shall send or ensure that
16 the person sends to the department information that is required by
17 the department for obtaining national criminal history record
18 information, which may include fingerprints and photographs. The
19 department shall obtain the person's national criminal history
20 record information and report the results through the criminal
21 history clearinghouse as provided by Section 411.0845, Government
22 Code.

23 (d) An entity contracting with a school district,
24 open-enrollment charter school, or shared services arrangement
25 shall obtain all criminal history record information that relates
26 to a person to whom Subsection (a) applies through the criminal
27 history clearinghouse as provided by Section 411.0845, Government

1 Code. The entity shall certify to the school district that the
2 entity has received all criminal history record information
3 relating to a person to whom Subsection (a) applies.

4 (e) A school district, open-enrollment charter school, or
5 shared services arrangement may obtain the criminal history record
6 information of a person to whom this section applies through the
7 criminal history clearinghouse as provided by Section 411.0845,
8 Government Code.

9 (f) In the event of an emergency, a school district may
10 allow a person to whom Subsection (a) or (g) applies to enter school
11 district property if the person is accompanied by a district
12 employee. A school district may adopt rules regarding an emergency
13 situation under this subsection.

14 (g) An entity that contracts with a school district,
15 open-enrollment charter school, or shared services arrangement to
16 provide services shall obtain from any law enforcement or criminal
17 justice agency or a private entity that is a consumer reporting
18 agency governed by the Fair Credit Reporting Act (15 U.S.C. Section
19 1681 et seq.), all criminal history record information that relates
20 to an employee of the entity who is employed before January 1, 2008,
21 and who is not subject to a national criminal history record
22 information review under Subsection (b) if:

23 (1) the employee has continuing duties related to the
24 contracted services; and

25 (2) the employee has direct contact with students.

26 (h) A school district, open-enrollment charter school, or
27 shared services arrangement may obtain from any law enforcement or

1 criminal justice agency all criminal history record information
2 that relates to a person to whom Subsection (g) applies.

3 (i) An entity shall certify to a school district that it has
4 received all criminal history record information required by
5 Subsection (g).

6 (j) The commissioner may adopt rules as necessary to
7 implement this section.

8 Sec. 22.0835. ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT
9 TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION
10 AUTHORITIES. (a) A school district, open-enrollment charter
11 school, or shared services arrangement shall obtain from the
12 department and may obtain from any other law enforcement or
13 criminal justice agency or a private entity that is a consumer
14 reporting agency governed by the Fair Credit Reporting Act (15
15 U.S.C. Section 1681 et seq.), all criminal history record
16 information that relates to:

17 (1) a person participating in an internship consisting
18 of student teaching to receive a teaching certificate; or

19 (2) a volunteer or person who has indicated, in
20 writing, an intention to serve as a volunteer with the district,
21 school, or shared services arrangement.

22 (b) A private school or regional education service center
23 may obtain from any law enforcement or criminal justice agency all
24 criminal history record information that relates to a person who
25 volunteers or has indicated, in writing, an intention to serve as a
26 volunteer with the school or service center.

27 (c) A person to whom Subsection (a) or (b) applies must

1 provide to the school district, open-enrollment charter school,
2 private school, regional education service center, or shared
3 services arrangement a driver's license or another form of
4 identification containing the person's photograph issued by an
5 entity of the United States government.

6 (d) A person to whom Subsection (a) applies may not perform
7 any student teaching or volunteer duties until all requirements
8 under Subsections (a) and (c) have been satisfied.

9 (e) Subsections (a) and (c) do not apply to a person who
10 volunteers or is applying to volunteer with a school district,
11 open-enrollment charter school, or shared services arrangement if
12 the person:

13 (1) is the parent, guardian, or grandparent of a child
14 who is enrolled in the district or school for which the person
15 volunteers or is applying to volunteer;

16 (2) will be accompanied by a school district employee
17 while on a school campus; or

18 (3) is volunteering for a single event on the school
19 campus.

20 (f) A school district, open-enrollment charter school, or
21 shared services arrangement may obtain from any law enforcement or
22 criminal justice agency all criminal history record information
23 that relates to a person to whom Subsection (e) applies.

24 (g) A school district, open-enrollment charter school,
25 private school, regional education service center, or shared
26 services arrangement may require a student teacher, volunteer, or
27 volunteer applicant to pay any costs related to obtaining criminal

1 history record information under this section.

2 Sec. 22.0836. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
3 REVIEW OF SUBSTITUTE TEACHERS. (a) This section applies to a
4 person who is a substitute teacher for a school district,
5 open-enrollment charter school, or shared services arrangement.

6 (b) A person to whom this section applies must submit to a
7 national criminal history record information review under this
8 section.

9 (c) A school district, open-enrollment charter school, or
10 shared services arrangement shall send or ensure that a person to
11 whom this section applies sends to the department information that
12 is required by the department for obtaining national criminal
13 history record information, which may include fingerprints and
14 photographs.

15 (d) The department shall obtain the person's national
16 criminal history record information and report the results through
17 the criminal history clearinghouse as provided by Section 411.0845,
18 Government Code.

19 (e) Each school district, open-enrollment charter school,
20 and shared services arrangement shall obtain all criminal history
21 record information that relates to a person to whom this section
22 applies through the criminal history clearinghouse as provided by
23 Section 411.0845, Government Code.

24 (f) The school district, open-enrollment charter school, or
25 shared services arrangement may require a person to pay any fees
26 related to obtaining criminal history record information under this
27 section.

1 (g) A school district, open-enrollment charter school, or
2 shared services arrangement shall provide the agency with the name
3 of a person to whom this section applies. The agency shall obtain
4 all criminal history record information of the person through the
5 criminal history clearinghouse as provided by Section 411.0845,
6 Government Code. The agency shall examine the criminal history
7 record information and certification records of the person and
8 notify the district, school, or shared services arrangement if the
9 person:

10 (1) may not be hired or must be discharged as provided
11 by Section 22.085; or

12 (2) may not be employed as a substitute teacher
13 because the person's educator certification has been revoked or is
14 suspended.

15 (h) The commissioner may adopt rules to implement this
16 section, including rules establishing deadlines for a school
17 district, open-enrollment charter school, or shared services
18 arrangement to require a person to whom this section applies to
19 submit fingerprints and photographs in compliance with this section
20 and the circumstances under which a person may not continue to be
21 employed as a substitute teacher.

22 (i) The agency shall establish a schedule for obtaining and
23 reviewing the information a school district, open-enrollment
24 charter school, or shared services arrangement and a substitute
25 teacher must provide under this section. Not later than September
26 1, 2011, the agency must obtain all national criminal history
27 record information on all substitute teachers. This subsection

1 expires October 1, 2011.

2 (j) The department in coordination with the commissioner
3 may adopt rules necessary to implement this section.

4 Sec. 22.0837. FEE FOR NATIONAL CRIMINAL HISTORY RECORD
5 INFORMATION. The agency by rule shall require a person submitting
6 to a national criminal history record information review under
7 Section 22.0832, 22.0833, or 22.0836 to pay a fee for the review in
8 an amount not to exceed the amount of any fee imposed on an
9 applicant for certification under Subchapter B, Chapter 21, for a
10 national criminal history record information review under Section
11 22.0831. The agency or the department may require an entity
12 authorized to collect information for a national criminal history
13 record information review to collect the fee required under this
14 section and to remit the funds collected to the agency.

15 SECTION 10. Section 22.085, Education Code, is amended to
16 read as follows:

17 Sec. 22.085. [~~DISCHARGE OF~~] EMPLOYEES AND APPLICANTS
18 CONVICTED OF CERTAIN OFFENSES. (a) A school district,
19 open-enrollment charter school, or shared services arrangement
20 shall discharge or refuse to hire an employee or applicant for
21 employment if the district, school, or shared services arrangement
22 obtains information through a criminal history record information
23 review that:

24 (1) the employee or applicant has been convicted of:
25 (A) a felony offense under Title 5, Penal Code;
26 (B) an offense on conviction of which a defendant
27 is required to register as a sex offender under Chapter 62, Code of

1 Criminal Procedure; or

2 (C) an offense under the laws of another state or
3 federal law that is equivalent to an offense under Paragraph (A) or
4 (B); and

5 (2) at the time the offense occurred, the victim of the
6 offense described by Subdivision (1) was under 18 years of age or
7 was enrolled in a public school.

8 (b) Subsection (a) does not apply if the employee or
9 applicant for employment committed an offense under Title 5, Penal
10 Code and:

11 (1) the date of the offense is more than 30 years
12 before:

13 (A) the effective date of S.B. No. 9, Acts of the
14 80th Legislature, Regular Session, 2007, in the case of a person
15 employed by a school district, open-enrollment charter school, or
16 shared services arrangement as of that date; or

17 (B) the date the person's employment will begin,
18 in the case of a person applying for employment with a school
19 district, open-enrollment charter school, or shared services
20 arrangement after the effective date of S.B. No. 9, Acts of the 80th
21 Legislature, Regular Session, 2007; and

22 (2) the employee or applicant for employment satisfied
23 all terms of the court order entered on conviction.

24 (c) A school district, open-enrollment charter school, or
25 shared services arrangement may not allow a person who is an
26 employee of or applicant for employment by an entity that contracts
27 with the district, school, or shared services arrangement to serve

1 at the district or school or for the shared services arrangement if
2 the district, school, or shared services arrangement obtains
3 information described by Subsection (a) through a criminal history
4 record information review concerning the employee or applicant. A
5 school district, open-enrollment charter school, or shared
6 services arrangement must ensure that an entity that the district,
7 school, or shared services arrangement contracts with for services
8 has obtained all criminal history record information as required by
9 Section 22.0834.

10 (d) A school district, open-enrollment charter school,
11 private school, regional education service center, or shared
12 services arrangement may discharge an employee if the district or
13 school obtains information of the employee's conviction of a felony
14 or of a misdemeanor involving moral turpitude that the employee did
15 not disclose to the State Board for Educator Certification or the
16 district, school, service center, or shared services arrangement.
17 An employee discharged under this section is considered to have
18 been discharged for misconduct for purposes of Section 207.044,
19 Labor Code.

20 (e) The State Board for Educator Certification may impose a
21 sanction on an educator who does not discharge an employee or refuse
22 to hire an applicant if the educator knows or should have known,
23 through a criminal history record information review, that the
24 employee or applicant has been convicted of an offense described by
25 Subsection (a).

26 (f) Each school year, the superintendent of a school
27 district or chief operating officer of an open-enrollment charter

1 school shall certify to the commissioner that the district or
2 school has complied with this section.

3 SECTION 11. Subchapter C, Chapter 22, Education Code, is
4 amended by adding Section 22.087 to read as follows:

5 Sec. 22.087. NOTIFICATION TO STATE BOARD FOR EDUCATOR
6 CERTIFICATION. The superintendent of a school district or the
7 director of an open-enrollment charter school, private school,
8 regional education service center, or shared services arrangement
9 shall promptly notify the State Board for Educator Certification in
10 writing if the person obtains or has knowledge of information
11 showing that an applicant for or holder of a certificate issued
12 under Subchapter B, Chapter 21, has a reported criminal history.

13 SECTION 12. Subchapter A, Chapter 38, Education Code, is
14 amended by adding Section 38.022 to read as follows:

15 Sec. 38.022. SCHOOL VISITORS. (a) A school district may
16 require a person who enters a district campus to display the
17 person's driver's license or another form of identification
18 containing the person's photograph issued by a governmental entity.

19 (b) A school district may establish an electronic database
20 for the purpose of storing information concerning visitors to
21 district campuses. Information stored in the electronic database
22 may be used only for the purpose of school district security and may
23 not be sold or otherwise disseminated to a third party for any
24 purpose.

25 (c) A school district may verify whether a visitor to a
26 district campus is a sex offender registered with the computerized
27 central database maintained by the Department of Public Safety as

1 provided by Article 62.005, Code of Criminal Procedure, or any
2 other database accessible by the district.

3 (d) The board of trustees of a school district shall adopt a
4 policy regarding the action to be taken by the administration of a
5 school campus when a visitor is identified as a sex offender.

6 SECTION 13. Section 261.308, Family Code, is amended by
7 adding Subsections (d) and (e) to read as follows:

8 (d) The department shall release information regarding a
9 person alleged to have committed abuse or neglect to persons who
10 have control over the person's access to children, including, as
11 appropriate, the Texas Education Agency, the State Board for
12 Educator Certification, the local school board or the school's
13 governing body, the superintendent of the school district, or the
14 school principal or director if the department determines that:

15 (1) the person alleged to have committed abuse or
16 neglect poses a substantial and immediate risk of harm to one or
17 more children outside the family of a child who is the subject of
18 the investigation; and

19 (2) the release of the information is necessary to
20 assist in protecting one or more children from the person alleged to
21 have committed abuse or neglect.

22 (e) On request, the department shall release information
23 about a person alleged to have committed abuse or neglect to the
24 State Board for Educator Certification if the board has a
25 reasonable basis for believing that the information is necessary to
26 assist the board in protecting children from the person alleged to
27 have committed abuse or neglect.

1 SECTION 14. Subsection (b), Section 261.406, Family Code,
2 is amended to read as follows:

3 (b) The department shall send a copy of the completed
4 ~~[written]~~ report of the department's investigation~~[, as~~
5 ~~appropriate,]~~ to the Texas Education Agency, the State Board for
6 Educator Certification ~~[agency responsible for teacher~~
7 ~~certification]~~, the local school board or the school's governing
8 body, the superintendent of the school district, and the school
9 principal or director, unless the principal or director is alleged
10 to have committed the abuse or neglect, for appropriate action. On
11 request, the department shall provide a copy of the report of
12 investigation to the parent, managing conservator, or legal
13 guardian of a child who is the subject of the investigation and to
14 the person alleged to have committed the abuse or neglect. The
15 report of investigation shall be edited to protect the identity of
16 the persons who made the report of abuse or neglect. Other than the
17 persons authorized by the section to receive a copy of the report,
18 Section 261.201(b) applies to the release of the report
19 ~~[confidential information]~~ relating to the investigation of ~~[a~~
20 ~~report of]~~ abuse or neglect under this section and to the identity
21 of the person who made the report of abuse or neglect.

22 SECTION 15. Section 411.042, Government Code, is amended by
23 amending Subsections (b) and (g) and adding Subsection (h) to read
24 as follows:

25 (b) The bureau of identification and records shall:

26 (1) procure and file for record photographs, pictures,
27 descriptions, fingerprints, measurements, and other pertinent

1 information of all persons arrested for or charged with a criminal
2 offense or convicted of a criminal offense, regardless of whether
3 the conviction is probated;

4 (2) collect information concerning the number and
5 nature of offenses reported or known to have been committed in the
6 state and the legal steps taken in connection with the offenses, and
7 other information useful in the study of crime and the
8 administration of justice, including a statistical breakdown of
9 those offenses in which family violence was involved;

10 (3) make ballistic tests of bullets and firearms and
11 chemical analyses of bloodstains, cloth, materials, and other
12 substances for law enforcement officers of the state;

13 (4) cooperate with identification and crime records
14 bureaus in other states and the United States Department of
15 Justice;

16 (5) maintain a list of all previous background checks
17 for applicants for any position regulated under Chapter 1702,
18 Occupations Code, who have undergone a criminal history background
19 check under Section 411.119, if the check indicates a Class B
20 misdemeanor or equivalent offense or a greater offense; ~~and~~

21 (6) collect information concerning the number and
22 nature of protective orders and all other pertinent information
23 about all persons on active protective orders. Information in the
24 law enforcement information system relating to an active protective
25 order shall include:

26 (A) the name, sex, race, date of birth, personal
27 descriptors, address, and county of residence of the person to whom

1 the order is directed;

2 (B) any known identifying number of the person to
3 whom the order is directed, including the person's social security
4 number or driver's license number;

5 (C) the name and county of residence of the
6 person protected by the order;

7 (D) the residence address and place of employment
8 or business of the person protected by the order, unless that
9 information is excluded from the order under Section 85.007, Family
10 Code;

11 (E) the child-care facility or school where a
12 child protected by the order normally resides or which the child
13 normally attends, unless that information is excluded from the
14 order under Section 85.007, Family Code;

15 (F) the relationship or former relationship
16 between the person who is protected by the order and the person to
17 whom the order is directed; and

18 (G) the date the order expires; and

19 (7) grant access to criminal history record
20 information in the manner authorized under Subchapter F.

21 (g) The department may adopt reasonable rules under this
22 section relating to:

23 (1) law enforcement information systems maintained by
24 the department;

25 (2) the collection, maintenance, and correction of
26 records;

27 (3) reports of criminal history information submitted

1 to the department; ~~and~~

2 (4) active protective orders issued under Chapter 71,
3 Family Code, and reporting procedures that ensure that information
4 relating to the issuance of an active protective order and to the
5 dismissal of an active protective order is reported to the local law
6 enforcement agency at the time of the order's issuance or dismissal
7 and entered by the local law enforcement agency in the state's law
8 enforcement information system; and

9 (5) a system for providing criminal history record
10 information through the criminal history clearinghouse under
11 Section 411.0845.

12 (h) The department may contract with private vendors as
13 necessary in implementing this section.

14 SECTION 16. Subsection (i), Section 411.081, Government
15 Code, is amended to read as follows:

16 (i) A criminal justice agency may disclose criminal history
17 record information that is the subject of an order of nondisclosure
18 to the following noncriminal justice agencies or entities only:

19 (1) the State Board for Educator Certification;

20 (2) a school district, charter school, private school,
21 regional education service center, commercial transportation
22 company, or education shared service arrangement;

23 (3) the Texas Medical [~~State~~] Board [~~of Medical~~
24 ~~Examiners~~];

25 (4) the Texas School for the Blind and Visually
26 Impaired;

27 (5) the Board of Law Examiners;

- 1 (6) the State Bar of Texas;
- 2 (7) a district court regarding a petition for name
3 change under Subchapter B, Chapter 45, Family Code;
- 4 (8) the Texas School for the Deaf;
- 5 (9) the Department of Family and Protective Services;
- 6 (10) the Texas Youth Commission;
- 7 (11) the Department of Assistive and Rehabilitative
8 Services;
- 9 (12) the Department of State Health Services, a local
10 mental health service, a local mental retardation authority, or a
11 community center providing services to persons with mental illness
12 or retardation;
- 13 (13) the Texas Private Security Board;
- 14 (14) a municipal or volunteer fire department;
- 15 (15) the Board of Nurse Examiners;
- 16 (16) a safe house providing shelter to children in
17 harmful situations;
- 18 (17) a public or nonprofit hospital or hospital
19 district;
- 20 (18) the Texas Juvenile Probation Commission;
- 21 (19) the securities commissioner, the banking
22 commissioner, the savings and loan commissioner, or the credit
23 union commissioner;
- 24 (20) the Texas State Board of Public Accountancy;
- 25 (21) the Texas Department of Licensing and Regulation;
- 26 (22) the Health and Human Services Commission; ~~and~~
- 27 (23) the Department of Aging and Disability Services;

1 and

2 (24) the Texas Education Agency.

3 SECTION 17. Subsections (b) and (c), Section 411.083,
4 Government Code, are amended to read as follows:

5 (b) The department shall grant access to criminal history
6 record information to:

7 (1) criminal justice agencies;

8 (2) noncriminal justice agencies authorized by
9 federal statute or executive order or by state statute to receive
10 criminal history record information;

11 (3) the person who is the subject of the criminal
12 history record information;

13 (4) a person working on a research or statistical
14 project that:

15 (A) is funded in whole or in part by state funds;

16 or

17 (B) meets the requirements of Part 22, Title 28,
18 Code of Federal Regulations, and is approved by the department;

19 (5) an individual or an agency that has a specific
20 agreement with a criminal justice agency to provide services
21 required for the administration of criminal justice under that
22 agreement, if the agreement:

23 (A) specifically authorizes access to
24 information;

25 (B) limits the use of information to the purposes
26 for which it is given;

27 (C) ensures the security and confidentiality of

1 the information; and

2 (D) provides for sanctions if a requirement
3 imposed under Paragraph (A), (B), or (C) is violated;

4 (6) an individual or an agency that has a specific
5 agreement with a noncriminal justice agency to provide services
6 related to the use of criminal history record information
7 disseminated under this subchapter, if the agreement:

8 (A) specifically authorizes access to
9 information;

10 (B) limits the use of information to the purposes
11 for which it is given;

12 (C) ensures the security and confidentiality of
13 the information; and

14 (D) provides for sanctions if a requirement
15 imposed under Paragraph (A), (B), or (C) is violated;

16 (7) a county or district clerk's office; and

17 (8) [~~(7)~~] the Office of Court Administration of the
18 Texas Judicial System.

19 (c) The department may disseminate criminal history record
20 information under Subsection (b)(1) only for a criminal justice
21 purpose. The department may disseminate criminal history record
22 information under Subsection (b)(2) only for a purpose specified in
23 the statute or order. The department may disseminate criminal
24 history record information under Subsection (b)(4), (5), or (6) [~~or~~
25 ~~(b)(5)~~] only for a purpose approved by the department and only under
26 rules adopted by the department. The department may disseminate
27 criminal history record information under Subsection (b)(7)

1 ~~[(b)(6)]~~ only to the extent necessary for a county or district clerk
2 to perform a duty imposed by law to collect and report criminal
3 court disposition information. Criminal history record
4 information disseminated to a clerk under Subsection (b)(7)
5 ~~[(b)(6)]~~ may be used by the clerk only to ensure that information
6 reported by the clerk to the department is accurate and complete.
7 The dissemination of information to a clerk under Subsection (b)(7)
8 ~~[(b)(6)]~~ does not affect the authority of the clerk to disclose or
9 use information submitted by the clerk to the department. The
10 department may disseminate criminal history record information
11 under Subsection (b)(8) ~~[(b)(7)]~~ only to the extent necessary for
12 the office of court administration to perform a duty imposed by law
13 to compile court statistics or prepare reports. The office of court
14 administration may disclose criminal history record information
15 obtained from the department under Subsection (b)(8) ~~[(b)(7)]~~ in a
16 statistic compiled by the office or a report prepared by the office,
17 but only in a manner that does not identify the person who is the
18 subject of the information.

19 SECTION 18. Subchapter F, Chapter 411, Government Code, is
20 amended by adding Section 411.0845 to read as follows:

21 Sec. 411.0845. CRIMINAL HISTORY CLEARINGHOUSE. (a) The
22 department shall establish an electronic clearinghouse and
23 subscription service to provide criminal history record
24 information to a particular person entitled to receive criminal
25 history record information and updates to a particular record to
26 which the person has subscribed under this subchapter.

27 (b) On receiving a request for criminal history record

1 information from a person entitled to such information under this
2 subchapter, the department shall provide through the electronic
3 clearinghouse:

4 (1) the criminal history record information reported
5 to the department or the Federal Bureau of Investigation relating
6 to the individual who is the subject of the request; or

7 (2) a statement that the individual who is the subject
8 of the request does not have any criminal history record
9 information reported to the department or the Federal Bureau of
10 Investigation.

11 (c) If the department provides information received from
12 the Federal Bureau of Investigation, the department must include
13 with the information the date the department received information
14 from the Federal Bureau of Investigation.

15 (d) The department shall ensure that the information
16 described by Subsection (b) is provided only to a person otherwise
17 entitled to obtain criminal history record information under this
18 subchapter. Information collected under this section is
19 confidential and is not subject to disclosure under Chapter 552.

20 (e) A person entitled to receive criminal history record
21 information under this section must provide the department with the
22 following information regarding the person who is the subject of
23 the criminal history record information requested:

24 (1) the person's full name, date of birth, sex, Texas
25 driver's license number or personal identification certificate
26 number, and social security number;

27 (2) a recent electronic digital image photograph of

1 the person and a complete set of the person's fingerprints as
2 required by the department; and

3 (3) any other information required by the department.

4 (f) The department shall maintain an Internet website for
5 the administration of the clearinghouse and an electronic
6 subscription service to provide notice of updates to a particular
7 criminal history record to each person entitled under this
8 subchapter to receive criminal history record information updates
9 to that particular record. The department shall update
10 clearinghouse records as a result of any change in information
11 discovered by the department. Within 48 hours after the department
12 becomes aware that a person's criminal history record information
13 in a clearinghouse record has changed, the department shall provide
14 notice of the updated information only to each subscriber to that
15 specific record.

16 (g) As soon as practicable, a subscriber who is no longer
17 entitled to receive criminal history record information relating to
18 a particular person shall notify the department. The department
19 shall cancel the person's subscription to that record and may not
20 notify the former subscriber of any updated information to that
21 record.

22 (h) A person who is the subject of the criminal history
23 record information requested under this section must consent to the
24 release of the information.

25 (i) The release under this section of any criminal history
26 record information maintained by the Federal Bureau of
27 Investigation is subject to federal law and regulations, federal

1 executive orders, and federal policy.

2 (j) The department may charge a fee for subscription
3 services to cover the costs of administering this section.

4 (k) A governmental agency may coordinate with the
5 department regarding the collection of a fee for the criminal
6 history record information through the fingerprinting fee
7 collection process.

8 SECTION 19. Section 411.087, Government Code, is amended by
9 adding Subsection (e) to read as follows:

10 (e) The department may provide access to state and national
11 criminal history record information to nongovernmental entities
12 entitled to that information under 42 U.S.C. Section 5119a. The
13 department must follow federal law and regulation, federal
14 executive orders, and federal policy in releasing information under
15 this subsection.

16 SECTION 20. Section 411.090, Government Code, is amended by
17 adding Subsection (c) to read as follows:

18 (c) The department shall notify the State Board for Educator
19 Certification of the arrest of any educator, as defined by Section
20 5.001, Education Code, who has fingerprints on file with the
21 department.

22 SECTION 21. Subchapter F, Chapter 411, Government Code, is
23 amended by adding Section 411.0901 to read as follows:

24 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
25 INFORMATION: TEXAS EDUCATION AGENCY. The Texas Education Agency
26 is entitled to obtain criminal history record information
27 maintained by the department about a person who:

1 (1) is employed or is an applicant for employment by a
2 school district or open-enrollment charter school;

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

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

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

12 (B) the employee or applicant has or will have
13 direct contact with students.

14 SECTION 22. The heading to Section 411.097, Government
15 Code, is amended to read as follows:

16 Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD
17 INFORMATION: LOCAL AND REGIONAL EDUCATIONAL ENTITIES [~~SCHOOL~~
18 ~~DISTRICT, CHARTER SCHOOL, PRIVATE SCHOOL, REGIONAL EDUCATION~~
19 ~~SERVICE CENTER, COMMERCIAL TRANSPORTATION COMPANY, OR EDUCATION~~
20 ~~SHARED SERVICES ARRANGEMENT~~].

21 SECTION 23. Subsections (a) and (b), Section 411.097,
22 Government Code, are amended to read as follows:

23 (a) A school district, charter school, private school,
24 regional education service center, commercial transportation
25 company, or education shared services arrangement, or an entity
26 that contracts to provide services to a school district, charter
27 school, or shared services arrangement, is entitled to obtain from

1 the department criminal history record information maintained by
2 the department that the district, school, service center, [~~or~~]
3 shared services arrangement, or entity is required or authorized to
4 obtain under Subchapter C, Chapter 22, Education Code, that relates
5 to a person who is:

6 (1) an applicant for employment by the district,
7 school, service center, or shared services arrangement; [~~or~~]

8 (2) an employee of or an applicant for employment with
9 a public or commercial transportation company that contracts with
10 the district, school, service center, or shared services
11 arrangement to provide transportation services if the employee
12 drives or the applicant will drive a bus in which students are
13 transported or is employed or is seeking employment as a bus monitor
14 or bus aide on a bus in which students are transported; or

15 (3) an employee of or applicant for employment by an
16 entity that contracts to provide services to a school district,
17 charter school, or shared services arrangement as provided by
18 Section 22.0834, Education Code.

19 (b) A school district, charter school, private school,
20 regional education service center, or education shared services
21 arrangement is entitled to obtain from the department [~~, no more~~
22 ~~than twice each year,~~] criminal history record information
23 maintained by the department that the district, school, service
24 center, or shared services arrangement is required or authorized to
25 obtain under Subchapter C, Chapter 22, Education Code, that relates
26 to a person who is a volunteer, student teacher, or employee of the
27 district, school, service center, or shared services arrangement.

1 SECTION 24. Subsection (a), Section 552.116, Government
2 Code, is amended to read as follows:

3 (a) An audit working paper of an audit of the state auditor
4 or the auditor of a state agency, an institution of higher education
5 as defined by Section 61.003, Education Code, a county, a
6 municipality, a school district, or a joint board operating under
7 Section 22.074, Transportation Code, including any audit relating
8 to the criminal history background check of a public school
9 employee, is excepted from the requirements of Section 552.021. If
10 information in an audit working paper is also maintained in another
11 record, that other record is not excepted from the requirements of
12 Section 552.021 by this section.

13 SECTION 25. Subdivision (1), Subsection (b), Section
14 552.116, Government Code, is amended to read as follows:

15 (1) "Audit" means an audit authorized or required by a
16 statute of this state or the United States, the charter or an
17 ordinance of a municipality, an order of the commissioners court of
18 a county, a resolution or other action of a board of trustees of a
19 school district, including an audit by the district relating to the
20 criminal history background check of a public school employee, or a
21 resolution or other action of a joint board described by Subsection
22 (a) and includes an investigation.

23 SECTION 26. Section 730.007, Transportation Code, is
24 amended by adding Subsection (f) to read as follows:

25 (f) Personal information obtained by an agency under
26 Section 411.0845, Government Code, in connection with a motor
27 vehicle record may be disclosed as provided by that section.

1 SECTION 27. Subsections (c) and (d), Section 22.083,
2 Education Code, are repealed.

3 SECTION 28. Section 21.007, Education Code, as added by
4 this Act, applies only to a report for misconduct filed with the
5 State Board for Educator Certification on or after September 1,
6 2007, regardless of whether the conduct or act that is the subject
7 of the report occurred or was committed before, on, or after that
8 date.

9 SECTION 29. As soon as practicable after the effective date
10 of this Act, the State Board for Educator Certification, the Texas
11 Education Agency, a school district, an open-enrollment charter
12 school, or a shared services arrangement shall, in the manner
13 prescribed by Sections 22.0831, 22.0832, 22.0833, and 22.0836,
14 Education Code, as added by this Act, begin obtaining national
15 criminal history record information for employees and applicants
16 for employment who are subject to a national criminal history
17 record information review under those sections.

18 SECTION 30. As soon as practicable after the effective date
19 of this Act, an entity that contracts with a school district,
20 open-enrollment charter school, or shared services arrangement
21 shall, in the manner prescribed by Section 22.0834, Education Code,
22 as added by this Act, begin obtaining national criminal history
23 record information for employees and applicants for employment who
24 are subject to a national criminal history record information
25 review under that section.

26 SECTION 31. Beginning September 1, 2007, a school district,
27 open-enrollment charter school, or shared services arrangement

1 shall obtain, in compliance with Section 22.0835, Education Code,
2 as added by this Act, criminal history record information relating
3 to each person who is a student teacher or volunteer or has
4 indicated in writing an intention to serve as a volunteer with the
5 district, school, or shared services arrangement in any capacity.

6 SECTION 32. As soon as practicable after the effective date
7 of this Act, the Department of Public Safety of the State of Texas
8 shall establish a criminal history clearinghouse as required by
9 Section 411.0845, Government Code, as added by this Act.

10 SECTION 33. Section 552.116, Government Code, as amended by
11 this Act, applies to an audit working paper created before, on, or
12 after the effective date of this Act.

13 SECTION 34. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 9 passed the Senate on March 26, 2007, by the following vote: Yeas 29, Nays 0; May 24, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 9 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 127, Nays 8, one present not voting; May 26, 2007, House granted request of the Senate for appointment of Conference Committee; May 27, 2007, House adopted Conference Committee Report by the following vote: Yeas 139, Nays 4, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor