

SUBJECT: Confidentiality of school district employees' criminal history information

COMMITTEE: Public Education — favorable, without amendment

VOTE: 7 ayes — Eissler, Farias, Jackson, Olivo, Patrick, Shelton, Weber

0 nays

4 absent — Hochberg, Allen, Aycock, Dutton

WITNESSES: For — Alejandra Martin, Texas Association of School Personnel Administrators; Ted Melina Raab, Texas AFT; Martha Owen, Texas AFT; (*Registered, but did not testify*: Portia Bosse, Texas State Teachers Association; David Duty, Texas Association of Community Schools; Harley Eckhart, Texas Elementary Principals and Supervisors Association; Monty Exter, Association of Texas Professional Educators; Rebecca Flores, Houston Independent School District; Lindsay Gustafson, Texas Classroom Teachers Association; Casey McCreary, Texas Association of School Administrators; Julie Shields, Texas Association of School Boards)

Against — None

BACKGROUND: SB 9 by Shapiro, enacted by the 80th Legislature during the 2007 regular session (Education Code, ch. 22, subch. C), requires a criminal history background check of all current and prospective public school employees.

DIGEST: HB 4302 would require that criminal history record information obtained by a school district related to a school district employee be kept confidential and not disclosed under the Public Information Act (PIA).

Any form of media, including a book, paper, letter, or document, or data held in computer memory, that was collected or maintained by a school district, and contained or was created from criminal history record information related to a district employee would be confidential and not subject to disclosure under the Public Information Act. The medium would not be subject to disclosure even if it contained other information, including information that otherwise would be subject to disclosure under the Public Information Act.

A school district could not confirm the existence or nonexistence of criminal history record information related to a district employee to any person not entitled to obtain that information from the Department of Public Safety or Federal Bureau of Investigation.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

By explicitly excepting a school district employee's criminal history background information from disclosure under the Public Information Act, HB 4302 would close a loophole in current law that allows this confidential information to be released. Federal and state statutes already limit access to criminal history background information to certain, specified entities. However, the attorney general has issued letter rulings that have allowed this information to be released by the school districts under certain circumstances. HB 4302 would ensure the confidentiality of this information, in accordance with other state and federal law.

Criminal history background information often is incomplete, inaccurate, or irrelevant to the employee's fitness for the employee's current position within the school district. This bill would keep information confidential that, if released, could be unnecessarily detrimental to the employee's career. The bill would not hinder a school district's ability to access criminal history background information and use that information to ensure the safety of students.

**OPPONENTS
SAY:**

HB 4302 would be another exception to the Public Information Act that limits the public's access to information. The attorney general has determined that information related to school district employees' criminal history background must be disclosed under certain circumstances. These circumstances already are limited, and the public's right to this information should be preserved because the process of hiring and employing people who spend time around school children should be as transparent as possible.