

**Senate Bill 9**  
**Background Checks for Education**  
**A Reference Guide**  
January 1, 2008

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## **SB9 OVERVIEW**

Under Senate Bill 9, passed in the most recent legislative Session, the Department of Public Safety (DPS), the State Board for Educator Certification (SBEC), Texas Education Agency (TEA), and Local and Regional Education Authorities will work together to obtain state (Texas) and national (FBI) criminal history record information (CHRI) on all active certified educators, non-certified employees, substitute teachers, student teachers, volunteers, open-enrollment charter school employees and contract employees. To perform the required criminal history record information (CHRI) check each individual will be required to submit demographic data, fingerprints and a digital image photograph in compliance with SB 9. In addition, the Fingerprint-based Applicant Clearinghouse of Texas (FACT) has been established to provide the criminal history search results and allow an entity to “subscribe” to the record of an individual. The subscribed entity will receive electronic notification via email if the individual is subsequently arrested or has other activity on their Texas record. Notice of out of state arrests or updates is not yet available via this subscription service.

## DEFINITIONS

These definitions are provided to help clarify how these words are used in this document, and are not intended to modify or superseded any statutory definitions.

**AFIS** -- *Automated Fingerprint Identification System*

**Automated Fingerprint Identification System** – A computer system that contains a database of fingerprints (of arrested persons and non-criminal just applicants, for example) and compares submitted fingerprints (of newly arrested persons or of persons applying for jobs, etc) against those existing prints. When a set of search fingerprints from a new arrest matches (hits) against an existing set of arrest fingerprints, the new arrest is added to the existing arrest record in the computerized criminal history file. When a set of search fingerprints from an applicant submission hits against an existing set of arrest fingerprints, the inquiring agency is notified that their applicant has a criminal history record. Latent fingerprints from crime scenes are also searched against the existing fingerprints. The DPS and the FBI both use AFIS technology to support their computerized criminal history systems. The FBI AFIS is called the Integrated Automated Fingerprint Identification System (IAFIS).

**CCH** -- *Computerized Criminal History system*

**Computerized Criminal History system** – At DPS, a computer system that contains information reported by local criminal justice authorities regarding the arrests by law enforcement agencies, prosecutions by prosecuting attorneys, adjudications and sentences by criminal courts, some information regarding supervision by the Texas Department of Criminal Justice (TDCJ). The CCH file is linked to the AFIS file through a State Identification Number (SID), so that a match against a set of fingerprints in AFIS can be linked to the corresponding criminal history record in CCH.

At FBI, a computer system that contains the same information reported from all states across the country. The FBI CCH is called the Interstate Identification Index (III).

**DPS** – *Department of Public Safety*

**FACT** – *Fingerprint-based Applicant Clearinghouse of Texas or Clearinghouse.* – A clearinghouse of criminal history search results of persons whose fingerprints have been searched against the DPS and FBI AFIS systems. FACT includes the name and demographic information of the person, as well as a digital photograph taken at the time of fingerprinting. The results are represented either as a “no

criminal history record” statement or a listing of the details of the criminal history record. FACT is used to provide results to agencies on initial fingerprint submission, at which time the submitting agency is “subscribed” to their applicant’s record in the Clearinghouse. If the applicant is arrested in Texas in the future, the agency will be notified through their subscription. In addition, if the person moves from a job at one agency authorized to use FACT to another agency (of the same category) authorized to use FACT, the second agency can simply review the criminal history record results in FACT, and the person does not have to go through the expense and inconvenience of initiating another fingerprint search through DPS and FBI.

To be entered into FACT, a person must have their fingerprints and photograph electronically captured through a FAST location.

**FAST** – *Fingerprint Applicant Services of Texas*. Performed under a contract to DPS, a private vendor, Integrated Biometric Technologies (IBT) performs “live-scan” fingerprinting of non-criminal justice applicants at locations across Texas. A photograph is also captured at the time of fingerprinting. The fingerprints and photograph are sent electronically to DPS, where the fingerprints are searched in the DPS AFIS for potential matches against criminal history records in the DPS CCH. The prints are then forwarded to FBI for comparison against the FBI AFIS and criminal history files.

**FBI** – *Federal Bureau of Investigation*

**Local or Regional Education Authorities** – School District, Open-Enrollment Charter School, or Shared Services Arrangement. Also, in this document, “Local Authorities”.

**National Criminal History Record Information Review** – A fingerprint based search for criminal history information through the DPS and FBI Automated Fingerprint Identification Systems and Computerized Criminal History Systems.

**TEA** – *Texas Education Agency*

# **THE FINGERPRINTING PROCESS:**

## **FINGERPRINT APPLICANT SERVICES OF TEXAS (FAST)**

### FAST Overview

To better serve applicants, agencies and employers, the DPS has partnered with L1-Solutions to provide applicant fingerprint processing services. Fingerprint locations have been established throughout the state to collect applicant's fingerprints using Live Scan technology, and submit them electronically to the state's Automated Fingerprint Identification System (AFIS), thus eliminating delays, poor quality and inconveniences associated with processing manually inked and conventionally mailed fingerprint cards.

The actual fingerprinting process varies depending upon the type of education applicant involved. The process very generally includes the following steps:

- The applicant will be given a FAST Fingerprint Pass that they must take to the fingerprinting appointment;
- The applicant will call or go online to set an appointment to be fingerprinted;
- The applicant will be printed and photographed;
- FAST sends the fingerprints and photo to DPS (who sends it to FBI) where the fingerprints are checked for a criminal history record;
- DPS sends the results of the search to the Fingerprint-based Applicant Clearinghouse of Texas (FACT) and notifies the inquiry school district, TEA, charter school, etc., that the search response is available in the FACT Clearinghouse;
- The inquiring entity signs onto FACT, views the record, and makes an employment decision.

Fees are paid or billed depending upon the situation. In addition, the existing certified educators are being done through a special process that includes the FAST vendor bringing mobile fingerprinting units to the school districts.

The variations are discussed in other documents included here.

### FAST Advantages

1. Convenient locations throughout the state
2. Quick, clean and accurate capture of fingerprints – no ink
3. 98% guarantee of classifiable prints – prevents processing delays and rejections
4. Fast response times for employers
5. FAST confirms prints are from the identified individual

SB9 Fingerprint Requirements

Individuals that are required by SB9 to submit to a CHRI review must use the DPS-contracted Fingerprint Application Services of Texas (FAST). If the individuals do not use the FAST they will be unable to participate in the Fingerprint-based Applicant Clearinghouse of Texas (FACT). All demographic information, fingerprints and photographs will be sent to the DPS electronically for processing.

To complete fingerprint processing procedures Individuals are **required** to present a current form of identification to verify their identity, i.e. a Texas driver license or ID card.

FAST Fees

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Fingerprint Acquisition	\$9.95
DPS Search	\$15.00
FBI Search	\$19.25

FAST Contact Information

1-888-467-2080  
[www.11id.com](http://www.11id.com)

## SUMMARY OF REQUIREMENTS FROM THE BILL

### **Regarding: Non-Certified Employees Hired Before January 1, 2008**

#### Bill Text

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

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

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

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

(1) [whom] the district or[-] school[-, service center, or shared services arrangement intends to employ in any capacity]; or

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

(a-1) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information from:

(1) the department;

(2) a law enforcement or criminal justice agency; or

(3) a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.).

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

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

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

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

(A) the employee or applicant has or will have continuing duties related to the

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

### **Key Points**

#### **This Section Applies to:**

Persons not otherwise identified in the bill, which includes non-certified employees hired before January 1, 2008. Other places in the bill direct local or regional education authorities to perform national criminal history searches on certain classes of persons associated with schools. This section directs local authorities to perform criminal history background searches on all other persons who are employees of the district or school whose duties are performed on school property or in other locations where students are regularly present. These checks do not have to be through DPS.

#### **Short Description of the Process to Fulfill this Requirement**

These checks do not have to be through DPS. They may also be accomplished through a private background search provider, as long as that vendor is required to operate under the Fair Credit Reporting Act.

DPS provides two services to fulfill this requirement:

1. **Name-Based search** through the Criminal History service of the DPS Secure Website. These searches are an authorized use of this service. Many local authorities are already signed up to use the Secure Website, and may use it for this purpose. If you are not signed up and would like to use it for this purpose, contact the Access and Dissemination Bureau, as described at the end of this document.
2. **Fingerprint-Based search** through the DPS Automated Fingerprint Identification System (AFIS) and the FBI Integrated Automated Fingerprint Identification System (IAFIS).

Since these persons will not be reviewed by the Texas Education Agency, TEA will not issue the *Fast Fingerprint Pass*, if the school wants to perform a national criminal history review. A school district, open-enrollment charter school, or shared services arrangement may require these individuals to undergo a national criminal history review, but the district, school, or shared services arrangement must issue the person a “*School FAST Fingerprint Pass*.” TEA will not issue a *FAST Fingerprint Pass* in this situation. See the link below for further instructions:

[SCHOOL FAST FINGERPRINT PASS](#)

## **Regarding: Certified Educators**

### **Bill Text**

*SECTION 9. Subchapter C, Chapter 22, Education Code, is amended by adding Sections 22.0831 through 22.0837 to read as follows:*

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

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

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

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

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

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

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

*(2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of a certificate or refusal to issue a certificate.*

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

### **Key Points**

#### **This section applies to:**

A person who is an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who is employed by or is an applicant for employment by a school district, open-enrollment charter school, or shared services arrangement.

This section of the bill requires the State Board for Educator Certification to review the national criminal history of any applicants for certification and of any existing certified educator who has not previously had that review. TEA has identified the existing certified educators, who are defined as certified individuals actively employed in schools during the 2006/2007 school year. TEA will communicate those names to the districts.

Those individuals will not have to pay the fee for the DPS and FBI criminal history search.

### **Short Description of the Process to Fulfill this Requirement**

#### **For New Applicants:**

New applicants will be enrolled in the FACT Clearinghouse after having been fingerprinted through the FAST fingerprinting process. Please refer to TEA's website for instructions on how that process should be accomplished.

#### **For Existing Certified Employees Identified by TEA:**

DPS and TEA/SBEC have teamed with FAST to fingerprint all existing certified educators on scheduled basis between January 2008 and August 2011. The process will begin with a pilot in the Austin Independent School District in January 2008. Under the proposed plan, the FAST vendor (IBT) will visit each school district with a mobile fingerprinting service to capture the fingerprints of the existing certified educators locally. Any existing certified educators who are not fingerprinted during their district's designated printing time will have to be fingerprinted at an existing FAST location. This process will be coordinated by TEA and IBT. Please refer to TEA for details on the implementation of this process.

Please refer to *Frequently Asked Questions - Senate Bill 9 for Administrators* on the SBEC website for information about the process. Generally, school districts will notify TEA of their certified educators, and TEA will issue the *FAST Fingerprint Passes*:

See: [http://www.sbec.state.tx.us/SBECOnline/fp/faq\\_SB9.asp](http://www.sbec.state.tx.us/SBECOnline/fp/faq_SB9.asp)

## **Regarding Certain Open-Enrollment Charter School Employees**

### **Bill Text**

Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL EMPLOYEES. (a) The agency shall review the national criminal history record information of an employee of an open-enrollment charter school to whom Section 12.1059 applies in the same manner as the State Board for Educator Certification reviews certified educators under Section 22.0831. If the agency determines that, based on information contained in an employee's criminal history record information, the employee would not be eligible for educator certification under Subchapter B, Chapter 21, the agency shall notify the open-enrollment charter school in writing that the person may not be employed by the school or serve in a capacity described by Section 12.1059.

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

### **For Reference, Text of Section 12.1059 Education Code**

*§ 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.*

### **Key Points**

#### **This section pertains to:**

A teacher, librarian, educational aide, administrator, or counselor for an open-enrollment charter school, as identified in Sec. 12.1059 Education Code.

This section directs that these employees in Open-Enrollment Charter School should be treated in the same manner as Certified Educators under the above section (Section 22.0831 Education Code) for criminal background check purposes.

#### **Short Description of the Process to Fulfill this Requirement**

See description of Certified Educator process, above. As with school district certified educators, TEA will issue the *FAST Fingerprint Pass*.

## **Regarding Non-Certified Employees—After January 2008**

### **Bill Text**

Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF NONCERTIFIED EMPLOYEES. (a) This section applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by:

(1) a school district or open-enrollment charter school; or  
(2) a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

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

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

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

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

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

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

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

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

## **Key Points**

### **This section applies to:**

Persons offered non-certified employment after January 1, 2008. This section applies to a person who is not a holder or applicant for certification, and:

“.. *who on or after January 1, 2008, is offered employment by:*

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

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

The local education authority must notify TEA of the applicant’s name, which will cause the national criminal history search process to begin.

DPS must respond through the FACT Clearinghouse.

### **Short Description of the Process to Fulfill this Requirement**

This process is described by TEA on their Website. TEA will issue the FAST Fingerprint Pass for these individuals as part of the process. See *District Fingerprinting Procedures for Non-Certified Employees under Senate Bill 9* on the State Board For Educator Certification Website:

[http://www.sbec.state.tx.us/SBECOnline/fp/df\\_SB9.asp?](http://www.sbec.state.tx.us/SBECOnline/fp/df_SB9.asp?)

## **Regarding Certain Contract Employees—After January 2008**

### **Bill Text**

Sec. 22.0834. CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTAIN CONTRACT EMPLOYEES. (a) This subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

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

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

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

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

(d) An entity contracting with a school district, open-enrollment charter school, or shared services arrangement shall obtain all criminal history record information that relates to a person to whom Subsection (a) applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The entity shall certify to the school district that the entity has received all criminal history record information relating to a person to whom Subsection (a) applies.

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

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

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

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

(2) the employee has direct contact with students.

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

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

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

### **Key Points**

- This section requires contractors to obtain national criminal history searches on certain employees. The section applies:  
    *“...to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:  
        (1) the employee or applicant has or will have continuing duties related to the contracted services; and  
        (2) the employee or applicant has or will have direct contact with students.””*
- The contracting company is responsible for obtaining the national criminal background check and certifying to the local education authority that it has been done.
- DPS must reply to the contractor through FACT.
- The local education authority may also go on FACT to review the search results.
- The local education authority may “subscribe” to the FACT record of the contractor employees as long as they work at that school.

### **Short Description of the Process to Fulfill this Requirement**

See specific instructions at the following link:

[GUIDE FOR SCHOOL CONTRACTORS](#)

## **Regarding Student Teachers and Volunteers**

### **Bill Text**

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

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

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

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

*(c) A person to whom Subsection (a) or (b) applies must provide to the school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government.*

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

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

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

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

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

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

*(g) A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may require a student teacher, volunteer, or volunteer applicant to pay any costs related to obtaining criminal history record information under this section.*

## **Key Points**

**This section applies to:**

**A. The following individuals at a school district, open-enrollment charter school, or shared services arrangement:**

1. a person participating in an internship consisting of student teaching to receive a teaching certificate; or
2. a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the district, school, or shared services arrangement.

The Local Educational Authority must obtain a DPS check on these persons, but it does not have to be a fingerprint-based national check through FAST. It can be a name-based search through the DPS Secure Site for criminal history information. The Local Authority may also check for criminal history through other law enforcement agencies and private background check service providers, but those checks are in addition to the required DPS check.

**B. The following individuals at a private school or regional education service center:**

1. a person who volunteers, or
2. has indicated, in writing, an intention to serve as a volunteer with the school or service center.

The private school or regional education service center is authorized, but not required, to obtain from any law enforcement or criminal justice agency all criminal history record information that relates to those persons.

**The requirement in “A” above, does not apply if the person:**

1. is the parent, guardian, or grandparent of a child who is enrolled in the district or school for which the person volunteers or is applying to volunteer;
2. will be accompanied by a school district employee while on a school campus; or
3. is volunteering for a single event on the school campus.

The Local Authority may obtain criminal history on those individuals from any criminal justice agency.

### **Short Description of the Process to Fulfill this Requirement**

**For Student Teachers**

The Local Education Authority must perform a search through DPS, but may also use a private background check service provider. The authority can fulfill this requirement as follows:

1. Run a name-based criminal history check through the DPS Secure Site for criminal history information.
- OR:
2. Request a national criminal history review by having the person submit their fingerprints through the FAST fingerprinting process. Since these persons will not be reviewed by the Texas Education Agency, TEA will not issue a *FAST Fingerprint Pass*. A local education authority may require these individuals to undergo a national criminal history review, but the authority must issue the person a “*School FAST Fingerprint Pass*.” Please refer to the link below and follow those instructions.

[SCHOOL FAST FINGERPRINT PASS](#)

AND

3. In addition to the DPS check, the local education authority may also use the services of a private background check service provider.

**For Volunteers at school district, open-enrollment charter school or shared services arrangement:**

The Local Education Authority can fulfill this requirement in the same manner as for student teachers, above.

**For Volunteers at private schools or educational service centers:**

The private school or regional education service center is authorized, but not required, to obtain from any law enforcement or criminal justice agency all criminal history record information that relates to those persons. The private school or educational service center may use DPS services in the same manner as described for student teachers, above.

## Regarding Substitute Teachers

### Bill Text

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

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

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

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

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

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

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

(1) may not be hired or must be discharged as provided by Section 22.085; or  
(2) may not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

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

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

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

### **Key Points**

**This section applies to:**

- A person who is a substitute teacher for a school district, open-enrollment charter school, or shared services arrangement.

These persons must submit to national criminal history record information review.

The DPS must reply through the FACT Clearinghouse.

TEA must review the records, as well.

TEA must review the national criminal history record information of all substitute teachers by October 1, 2011.

### **Short Description of the Process to Fulfill this Requirement**

TEA has described on their website how substitute teachers will be handled. Please refer to *Frequently Asked Questions - Senate Bill 9 for Administrators* on the SBEC website for information about the process:

TEA describes this process on their Website. Please refer to:  
[http://www.sbec.state.tx.us/SBECOnline/fp/faq\\_SB9.asp](http://www.sbec.state.tx.us/SBECOnline/fp/faq_SB9.asp)



# **GUIDE FOR SCHOOL CONTRACTORS DPS AND FBI CRIMINAL HISTORY CHECKS**

## **Legislative Requirement**

Senate Bill 9 passed in the most recent legislative session directs school district contractors to obtain state and national criminal history background searches on their employees who:

*On or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:*

- (1) the employee or applicant has or will have continuing duties related to the contracted services; and*
- (2) the employee or applicant has or will have direct contact with students.*

The bill states that DPS will provide the results through the DPS criminal history clearinghouse (Fingerprint-based Applicant Clearinghouse of Texas –FACT). FACT is a new service developed by the DPS to fulfill the background check requirements of non-criminal justice entities. Initially FACT will serve the Texas Education Agency (TEA), school districts, charter schools, and school contractors as required by Senate Bill 9.

## **The Process**

Briefly stated, school contractors must take the following steps to obtain the background checks required under Senate Bill 9:

### **1. Establish an account on the DPS FACT clearinghouse, as follows:**

- a. Contact the DPS Access and Dissemination Bureau and advise them that you are applying for access as a school contractor:

Access and Dissemination Bureau  
Texas Department of Public Safety  
Crime Records Service  
P. O. Box 149322  
Austin, Texas 78714-9322

Email: [FACT@txdps.state.tx.us](mailto:FACT@txdps.state.tx.us)

Phone: (512) 424-2365

- b. Access and Dissemination Bureau will provide via email:
  - i. the website address where you go to sign up for access to the DPS Secure Website for criminal history (FACT is a component of that site);
    1. Follow the on-site instructions

2. Sign the Secure Site User agreement and return it to DPS. You may fax the signed copies to the Access and Dissemination Bureau and send the originals in the mail. Originals must be received within 14 days.
  - ii. a User Agreement for FACT
    1. Sign the FACT User Agreement and return it to DPS. This is necessary because it is more restrictive than the Secure Site User Agreement. You may fax the signed copies to the Access and Dissemination Bureau and send the originals in the mail. Originals must be received within 14 days.
  - iii. The Security Policy for Non-Criminal Justice Agency Access, Use, and Dissemination of Criminal History Record Information.
    1. When you sign the User Agreement you are agreeing to abide by the Security Policy requirements.
  - iv. a request for the front page and signature page of your contract with a school district, open-enrollment charter school, or shared services arrangement.
    1. Please fax those documents to the Access and Dissemination Bureau and mail the originals to be mailed with the other submissions.
- c. After the User Agreements are received, DPS will notify you of your approval and provide you with a form (called a “Fast Fingerprint Pass”) with your company’s User Number for use on FACT. The form will be sent to your Message Center on the Secure Website. That form must be given to each employee who will work at a school, as described by Senate Bill 9.

**2. Perform criminal history background searches on employees who will work at a school, under the conditions described in Senate Bill 9 (listed above in *Legislative Requirement*).**

- a. Direct those employees set an appointment for fingerprinting through the DPS Fingerprint Applicant Services of Texas (FAST) contractor at the phone and email listed on the *Fast Fingerprint Pass*. The person must take the *Fast Fingerprint Pass* with them to the appointment. The person will pay the fees (See Section 6, below) either at the time of scheduling or at the time of fingerprinting.
- b. After the person is fingerprinted, FAST will send the fingerprints to DPS electronically. DPS will search the fingerprints through the DPS Automated Fingerprint Identification system (AFIS) which contains the fingerprints of persons reported to DPS as having been arrested in Texas.

DPS will then send the fingerprints to the FBI for searching through the FBI AFIS, which contains the fingerprints of persons reported to the FBI as having been arrested in other states.

- c. DPS will consolidate the results from the DPS and FBI and place them in the FACT Clearinghouse. At that time, FACT will send you an email notice that the results are available for you to review. You will sign on the FACT website to review the results and make a determination regarding the suitability of that person to work in the schools.
- d. At the time that you are notified of the results, you are also automatically “subscribed” to that person’s record in FACT. That means that if the person is arrested in Texas in the future, you will receive an email from FACT telling you that the person’s record has been updated. (See #3 and #4, below.)
- e. Senate Bill 9 requires that you “certify” to any school district at which you work that this process has been followed. The school district may ask for a person’s name, driver license number, and other information to inquire into the FACT Clearinghouse and verify the results, as well.

**3. Unsubscribe to records of employees who leave your employment.**

- a. You are only authorized to see a person’s criminal history as long as they are in your employ, as described in Senate Bill 9. If a person leaves your employment, you must “unsubscribe” to that record. See #4 below.
- b. The FACT website gives you an unsubscribe feature that you must use whenever a person leaves your employment. That person will remain on your FACT list of employees, but will be “inactive”. If the person returns to your employment, you can simply “re-activate” the record. This is intended to assist with managing the background check requirements of seasonal employees.

**4. Respond to subscription notices of updates to the criminal history record information.**

- a. When a person to whom you are “subscribed” is reported to DPS has having been arrested in Texas, you will receive an email notification of an update to the criminal history record. You must sign into the FACT website and review the notice.
- b. Prior to viewing the updated criminal history record information, you must verify from your own records that the person is still an employee and that you are still authorized to receive the record. If the person is no longer employed by your company, you are no longer authorized to receive the updated criminal history record information.

- c. The website gives you the opportunity to review the record, or to “unsubscribe” from the record. If you are still authorized to view the record, click the appropriate button to view the record. If you are no longer authorized to view the record, click the “unsubscribe” button.

**5. Maintain Security and Confidentiality of criminal history record information obtained from FACT.**

- a. You are authorized to use the criminal history background check process only for purposes identified in Senate Bill 9. Unauthorized access to criminal history record information is a crime under Section 411.083, Texas Government Code.
- b. The FACT User Entity Agreement has a Security Policy attached. You must read and follow those guidelines.
- c. DPS will audit use of the criminal history file and of FACT. Audits will include a comparison of criminal history background check submissions from contractors against their employment records to verify that the information is only being requested and used for authorized purposes. Violations of DPS or FBI policies or state or federal law may result in termination of services and/or criminal penalties.
- d. The information in the FACT Clearinghouse is confidential, and access must be restricted to the least number of persons needed to review the records.
- e. Access to FACT must be from a computer within your company offices and cannot be from a public internet computer that is or could be shared by other users who are not authorized users within your company (for example computers in a public library).
- f. Any questions regarding the access, use, dissemination of criminal history record information must be referred to:

Access and Dissemination Bureau  
Texas Department of Public Safety  
Crime Records Service  
P. O. Box 149322  
Austin, Texas 78714-9322

Email: [FACT@txdps.state.tx.us](mailto:FACT@txdps.state.tx.us)  
Phone: (512) 424-2365

**6. Fees**

1. The charge for the applicant to be fingerprinted at the FAST location is \$9.95.
2. The charge for the search of the DPS criminal history file is \$15.00.
3. The charge for the search of the FBI criminal history file is \$19.25.
4. The total fee of \$44.20 is payable in one of two methods:
  - a. On-line at the time of scheduling the fingerprinting appointment. Methods of on-line payment are credit card or debit card. On-line payment requires a small (less than \$2.00) convenience fee paid to the state electronic payment service. That fee is not included in the \$44.20 identified above.  
Or:
  - b. At the time of fingerprinting by personal check, cashiers check, or money order.

## TEXAS DEPARTMENT OF PUBLIC SAFETY

# SECURITY POLICY FOR NON-CRIMINAL JUSTICE AGENCIES' ACCESS, USE, AND DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION

### I. ACCESS BY NONCRIMINAL JUSTICE ENTITIES

#### A. Legislative Authority for Non-criminal Justice Entities' Access

**Policy:** A non-criminal justice entity legislatively authorized by Chapter 411, Subchapter F of the Texas Government Code or other Texas law to receive criminal history record information (CHRI) from the Department of Public Safety (Department) may access the DPS databases. All non-criminal justice entities granted access to the DPS CHRI will be subject to all applicable state and federal laws, rules, regulations and policies that relate to the obtaining, use and dissemination of CHRI.

The Federal Bureau of Investigation (FBI) may authorize certain Texas entities access to FBI criminal history record information based upon approved Texas statutes or federal law.

**Commentary:** All DPS databases are maintained by the Department and may be accessed pursuant to Chapter 411, Subchapter F of the Texas Government Code or other Texas law. A non-criminal justice entity granted access to the DPS databases may submit criminal history inquiries through the DPS Access and Dissemination Bureau, Criminal History Inquiry Unit, through the DPS Secure Website for Criminal History Information, through fingerprint submission. Results will be provided on-line through the DPS Secure Website, through the Fingerprint-based Applicant Clearinghouse of Texas (FACT), via the mail, or through other means, as agreed upon between DPS and the requestor. The DPS databases will provide a non-criminal justice entity only with CHRI originating in Texas. In those instances where fingerprints are submitted under a statute approved for access to the FBI records, DPS will forward the fingerprints to the FBI and FBI will provide the record respond through the DPS.

#### B. Non-criminal Justice Entity User Agreements

**Policy:** A non-criminal justice entity requesting access to the DPS databases must provide the Department with a signed written user agreement in which the entity

agrees to comply with Department policies regarding the use of the DPS databases or information. The user agreement will include standards and sanctions governing the non-criminal justice entity's utilization of the DPS databases or information and will incorporate the policies set forth in this document. These policies also apply to access to, use, and dissemination of FBI criminal history record information, when appropriate.

**Commentary:** None

## II. PERSONNEL SECURITY

### A. Authorized Users

**Policy:** A non-criminal justice entity must provide the Department with the name, sex, race, date of birth, and title of each official/employee of the non-criminal justice entity who will utilize information received from the DPS databases. The Department will perform a name-based background check on each name submitted, and reserves the right to require a fingerprint-based background check, prior to approving access for the official/employee. Only those persons approved by the Department, hereinafter referred to as authorized employees, will be allowed access to the DPS databases or information on behalf of the non-criminal justice entity. An official/employee who is not approved to utilize the DPS databases or information may dispute the information forming the basis of the Department's decision through the submission of fingerprints. The Department may limit the number of authorized employees within a non-criminal justice entity. These same personnel screening criteria apply to access to the FBI criminal history record information received from FBI through the DPS.

**Commentary:** Only authorized users may access the information received from the DPS and FBI databases. The number of authorized users shall be limited to the number reasonably necessary to perform criminal history checks for the purposes permitted by law.

### B. User Identifier

**Policy:** A Department-issued user entity identifier shall be used in each transaction in the DPS databases for retrieval of CHRI.

**Commentary:** The Department will assign a user identifier to each non-criminal justice entity authorized by the Department to access the DPS databases for CHRI. This user identifier serves to identify the non-criminal justice entity accessing the DPS and FBI databases and ensures the proper level of access for the non-criminal justice entity.

### III. FACILITY AND INFORMATION SECURITY

#### A. Facility Security Standards

**Policy:** The location of all CHRI received from the DPS or FBI databases must have adequate physical security to protect against any unauthorized viewing or access to displayed/stored/printed criminal history record information at all times.

**Commentary:** File cabinets or file systems used to maintain CHRI must be protected from unauthorized viewing of or access to CHRI. For example, either locking of the file cabinet or locking the access to the room the files are housed is one component of complying with this policy.

#### B. Information Security Standards

**Policy:** Criminal history record information obtained from the DPS or FBI databases is sensitive information and must be maintained in a secure records environment to prevent the unauthorized viewing or use of the criminal history record information.

**Commentary:** None

**Policy:** When retention of criminal history record information is no longer necessary or is not permitted by law, the criminal history record information shall be properly disposed. A secure manner of disposal must be utilized to destroy thoroughly all elements of the records and preclude unauthorized viewing, access or use.

**Commentary:** Disposal procedures should include a method sufficient to preclude recognition or reconstruction of information (i.e., shredding). The method should also provide verification that the disposal procedures were successfully completed.

### IV. CRIMINAL HISTORY RECORD INFORMATION

#### A. Obtaining, Use and Dissemination of Criminal History Record Information

**Policy:**

A non-criminal justice entity may retrieve criminal history record information through the DPS or FBI databases only for legislatively authorized purposes. Criminal history record information received from the DPS or FBI databases shall be used only for legislatively authorized purposes and may not be disseminated to a person not authorized to receive the information. Upon request by the Department, all users must provide an authorized purpose for all criminal history record information inquiries. The ability to retrieve criminal history record information is subject to cancellation if the information is obtained or used in an unauthorized manner or disseminated to a person not authorized to receive the criminal history record information. Criminal sanctions are also in place for the improper obtaining, use and dissemination of criminal history record information.

**Commentary:** Generally, criminal history record information held by the DPS and the FBI is confidential and may be disseminated only as authorized by state or federal statute. Specific non-criminal justice entities are legislatively authorized to receive criminal history record information for limited, specified purposes. The non-criminal justice entity is responsible for complying with all laws governing the non-criminal justice entity's access to, use, and dissemination of criminal history record information. State law makes it unlawful for a person to obtain confidential criminal history record information in an unauthorized manner, use the information for an unauthorized purpose, or disclose the information to a person not entitled to the information. State law also makes it unlawful for a non-criminal justice entity to provide a person with a copy of the person's criminal history record information obtained from the Department unless authorized to do so by a specific state statute.

**B. Commercial Dissemination**

**Policy:** The commercial dissemination of criminal history record information obtained through the DPS databases is prohibited.

**Commentary:** The marketing of data for profit is not permitted. State law makes it a felony offense to obtain, use, or disclose, or employ another to obtain, use or disclose, criminal history record information for remuneration or for the promise of remuneration.

**V. AUDITS**

**Security Audits**

**Policy:** A security audit may be performed on a periodic basis by the Department for the purpose of measuring the non-criminal justice entity's compliance with the laws, rules,

regulations and policies relating to the DPS databases and the criminal history record information obtained there-from.

# SCHOOL FAST FINGERPRINT PASS

**DOUG: WE ARE STILL WORKING ON THIS SECTION. IT WILL BE SLIGHTLY DIFFERENT IN THE FINAL VERSION.**

## **For Employees and Applicants:**

DPS has sent to each school district a generic *School FAST Fingerprint Pass* that is to be used in instances where the school wants a national criminal history review, but the results will not be reviewed by TEA.

- The *School FAST Fingerprint Pass* already has the FACT Clearinghouse ORI in “Agency ORI” field.
- The school must place the school district ORI in the “School District ORI” field.
- The school can put a school reference number in the “Agency Assigned Applicant Number” field.

If you have not received the *School FAST Fingerprint Pass*, please contact the Access and Dissemination Bureau.

The school or other local education authority must issue the School FAST Fingerprint Pass, as described above, and then direct the person to the FAST scheduling process as described on the *School FAST Fingerprint Pass*. Payment will have to be made at time of scheduling or at time of fingerprinting. DPS will not bill local education authorities for these searches.

## **For Volunteers and Volunteer Applicants:**

Volunteer searches are at a reduced price. DPS has also sent a *School Volunteer FAST Pass*. That form is the same, except it has the FACT ORI for volunteers, which causes the reduced price. Local Education Authorities must use that form when performing national criminal history reviews on volunteers.

# **THE DPS CRIMINAL HISTORY CLEARINGHOUSE**

## **FINGERPRINT-BASED APPLICANT SERVICES OF TEXAS (FACT)**

### FACT Overview

SB9 required the DPS to establish an electronic clearinghouse and subscription service to provide CHRI to persons entitled to receive this information. The Fingerprint-based Applicant Clearinghouse of Texas (FACT) is based on fingerprints, photographs, and other identification that will enable the employing school district and TEA/SBEC to have a positive identification of individuals employed or contracted to work in Texas school districts. In addition, School Districts and SBEC/TEA will have access to the employee's current national criminal history, and FACT will also provide updates of the employee's subsequent criminal history through a subscription service.

### FACT Provides

When the DPS receives a request for CHRI from a person entitled to such information, the DPS will provide through the FACT:

1. the CHRI reported to DPS or the FBI relating to an individual who is the subject of the request in one consolidated format; or
2. a statement that the individual who is the subject of the request does not have any CHRI reported to the DPS or the FBI

A person who is the subject of the CHRI requested must give consent to the release of the information.

When an individual completes and signs the "FAST Fingerprint Form" they are giving consent to the release of their CHRI to the authorized entity.

### FACT Participation

All persons subject to national criminal history review under SB 9 will be automatically enrolled in FACT as a function of being fingerprinted by FAST and searched through the DPS and FBI criminal history files. The following information will be collected through the FAST process:

- Person's full name
- Date of birth
- Texas driver's license number or personal identification certificate number
- Social security number
- Recent electronic digital image photograph
- Complete set of fingerprints

### FACT Subscription Services

The employing school district or other local or regional education authority will be automatically "subscribed" to an individual as that person goes through the national

criminal history review process. Subscribers are authorized to use the criminal history background check process only for purposes identified in Senate Bill 9. Unauthorized access to criminal history record information is a crime under Section 411.083, Texas Government Code.

The FACT will be updated when any change of criminal history information is reported to the DPS. The DPS will notify subscribers via email that a record has been updated. The subscriber must sign into the FACT website and review the notice. If the person is **no** longer employed by the subscriber's agency/company, you are **no** longer authorized to receive the updated CHRI and must "unsubscribe" from the record rather than view it. If the subscriber chooses to unsubscribe, they will no longer receive updated CHRI to that specific record. That person will remain on the subscriber's list of employees, but will be inactive. If the person returns to employment the subscriber can reactivate the record.

#### FACT Subscription Fee

Subscribing and unsubscribing is done through the DPS website and does not involve a fee, although there is a fee of **\$1.00** for obtaining subsequent CHRI after the initial one notification.

#### FACT Confidentiality

The FACT Clearinghouse contains confidential information and access must be restricted to the least number of persons needed to review the records.

#### FACT Contact Information

Any questions regarding the access, use, dissemination of criminal history record information must be referred to:

Access and Dissemination Bureau  
Texas Department of Public Safety  
Crime Records Service  
P. O. Box 149322  
Austin, Texas 78714-9322

Email: [FACT@txdps.state.tx.us](mailto:FACT@txdps.state.tx.us)

Phone: (512) 424-2365

# DPS LETTER TO SCHOOL DISTRICTS

December 14, 2007

Dear School District Administrators:

This letter is to update you on the DPS role in fulfilling the requirements of Senate Bill 9 (SB9), 80<sup>th</sup> Legislative Session. The Department of Public Safety (DPS) is working in collaboration with the State Board for Educator Certification (SBEC), Texas Education Agency (TEA) and Texas school districts to obtain state and national criminal history record information on specific persons within the school districts, as required by SB9. While this letter provides a general overview of the fingerprint background check services available, school district administrators should consult the TEA website at <http://www.tea.state.tx.us> and navigate to the “Hot Topic” entitled *District Fingerprinting Procedures for Non-Certified Employees under Senate Bill 9* in order to obtain specific implementation details of these services.

The DPS will provide TEA/SBEC and the School Districts the following services to support this activity:

1. A fingerprinting service for persons needing to have fingerprint based criminal history background checks under the bill;
2. A fingerprint-based search of the Texas state-level DPS criminal history files;
3. A fingerprint-based search of the national-level FBI criminal history files;
4. A response to each of the above searches delivered through the newly created Fingerprint-based Applicant Clearinghouse of Texas (FACT)
5. A subscription service through FACT to notify districts of any future Texas arrest of one of their employees who is in the FACT clearinghouse. (Future FBI changes will provide for notice of out-of-state arrests, as well.)
6. As the FACT database matures, quick, inexpensive criminal history check verification of new applicants, if they are already in the FACT file.

## Description of the DPS Services

### **A fingerprinting service for persons needing to have fingerprint based criminal history background checks under the bill**

In 2005, DPS entered into a contract with Integrated Biometric Technology (IBT), an L-1 Identity Solutions Company, to provide a statewide fingerprinting service for

persons needing fingerprint based criminal history checks to obtain employment, apply for licenses, volunteer with children or the elderly, and many other purposes. The contract created the Fingerprint Applicant Services of Texas (FAST). The fee for any person to be fingerprinted through the FAST service is \$9.95. That money goes to the vendor to fund the service. Since this is a self-sustaining fee, DPS does not pay the vendor any money to provide the service, and DPS does not receive any funds from the printing done by FAST.

Through a process that will be different depending upon the category of the person being fingerprinted, TEA will provide the school district with a “FAST Fingerprint Pass” for each applicant who needs to be fingerprinted. After January 1, 2008, applicants will have to go to the FAST website (or they may call a toll free number) and make an appointment for the fingerprinting. The individual must then take the FAST Fingerprint Pass to the FAST appointment. At the appointment, the applicant must provide a valid Texas Driver License or Identification Card. The FAST operator will use a “livescan” fingerprinting device to take the electronic fingerprints of the applicant. A digital photograph will also be captured. The total appointment time will normally be less than 10 minutes. The above process will be especially different for existing certified educators, so please refer to the TEA website for specific instructions.

#### **A fingerprint-based search of the Texas state-level DPS criminal history files and a fingerprint-based search of the national-level FBI criminal history files**

The criminal records stored at the DPS and the FBI are based upon fingerprints submitted at the time of arrest. DPS and FBI have Automated Fingerprint Identification Systems (AFIS) that take in the electronic image of the fingerprints taken by the FAST operator and compare them against all the fingerprints of the persons reported to the DPS and FBI as having been previously arrested in Texas (DPS) or anywhere in the nation (FBI). DPS and FBI have criminal history files of all the arrests, prosecutions, court dispositions of the persons who have arrest fingerprints in the AFIS. When a match is identified through the AFIS system, the corresponding criminal history record is pulled from the DPS or FBI criminal history system and provided as search results.

#### **A response to each of the above searches delivered through the newly created Fingerprint-based Applicant Clearinghouse of Texas (FACT)**

The criminal history record responses received from the DPS and FBI AFIS/Criminal History Systems are then sent electronically to the Fingerprint-based Applicant Clearinghouse of Texas (FACT) website. FACT will act as a repository of the DPS and FBI criminal history search results of all the certified and non-certified persons who are processed through FAST under SB 9 requirements.

Once the results are in FACT, the system will send the district an email stating that the results are available, and that the district has been “subscribed” to that person as an employee of the district.

**A subscription service through FACT to notify districts of any future Texas arrest of one of their employees who is in the FACT clearinghouse. (Future FBI changes will provide for notice of out-of-state arrests, as well.)**

The subscription means that the district will be notified if the DPS receives a report from any Texas law enforcement agency that the individual has been arrested. This service prevents the districts from having to re-run these individuals to find out if they have arrest activity that occurred after they become employed. This service is called “Rap-Back”. At present FBI does not provide Rap-Back, but does have plans to implement this service in the future. The subscription service is automatic for on applicants who are enrolling in the FACT clearinghouse for the first time. It is a manual process when the district hires a person who is already in the FACT clearinghouse.

**Quick, inexpensive criminal history check verification of new applicants, if they are already in the FACT file.**

One of the great advantages of the FACT website is that in the future it will allow for quick verification of a new applicant’s criminal history background check status. After a person applies for a certified or non-certified position, been fingerprinted and photographed, and had his or her DPS and FBI responses entered into FACT, they do not need to go through the process again if they move employment to a new school. Upon subsequent application, they will be able to advise the new school that they are already entered into FACT. They will provide their Driver License or ID card to the new school, which will use it to make a query into the FACT website at the cost of \$1.00 (rather than the \$9.95 fingerprinting fee, the \$15 DPS fingerprint search fee and the \$19.25 FBI fingerprint search fee). FACT will show the new school the fingerprint based criminal history associated with the FACT enrollee as well as the photograph of the person. The new school will have the DL or ID as well as the applicant to compare against the photograph to be sure that the FACT results are for the right person. If the new school hires the person, the school will have to subscribe to that person’s record.

**Other FACT functions:**

1. Subscription function

FACT has a function that allows a district to “subscribe” to an employee. If a district hires an individual who is not in the FACT clearinghouse, the person will be entered into FACT as a result of the fingerprint submission, and the district will be automatically subscribed. If a district hires a person already in

the FACT clearinghouse, the district will have to log onto FACT and subscribe to that person's record, so the district will be notified of any arrest in the future.

2. Un-Subscription function

FACT has a function that allows a district to un-subscribe to a person. Districts will be responsible for un-subscribing to individuals' records when those individuals leave the districts' employment.

3. Rap-Back notification function

When an individual with a FACT record is arrested in Texas, FACT will send a notification email to the district that is subscribed to that person's FACT record indicating that they have criminal history activity. If the subscription is valid and the person is still employed or volunteering at the district, the district will log onto FACT and request the record. If the subscription is actually invalid and the person is not still employed by or volunteering at the district, the district is no longer authorized under law to receive the record. The district must log onto FACT and un-subscribe from that record.

Please direct any questions regarding the services described above to:

Access and Dissemination Bureau  
Attn: FACT  
Texas Department of Public Safety  
Crime Records Service  
P. O. Box 4143  
Austin, Texas 78765

Phone: 512 424-2365  
Email: [FACT@txdps.state.tx.us](mailto:FACT@txdps.state.tx.us)