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# 4B

## Action

### *Legislative Committee*

### Analyses of Bills

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## AGENDA INSERT

**Executive Summary:** Staff will present analyses of educator preparation and licensing bills introduced by Legislators. The analyses will summarize current law, describe the bill's provisions, estimate its costs and recommend amendments, if applicable.

**Recommended Action:** Staff will recommend a position in each bill analysis submitted for the Commission's consideration.

**Presenters:** Mary Armstrong, Director; Marilyn Errett, Administrator; Anne Padilla, Consultant; and Erin Duff, Assistant Consultant, Office of Governmental Relations

#### Strategic Plan Goal: 2

#### Support policy development related to educator preparation, conduct and professional growth

- ◆ Inform key legislators and policy makers on issues and ideas relevant to the Commission's scope of action

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# Bill Analysis

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## AB 1025 (Conway) Activity Supervisor Clearance Certificate

**Recommended Position:** Support if Amended

**Sponsor:** Assembly Member Conway

**Bill Version:** As Amended May 18, 2009

### Analysis of Bill Provisions

AB 1025 would require that effective July 1, 2010 prior to assuming a paid or volunteer position to supervise, direct, or coach a pupil activity program sponsored by, or affiliated with, a school district, a non-certificated candidate, must obtain an Activity Supervisor Clearance Certificate (ASCC) from the Commission on Teacher Credentialing (CTC). The ASCC will be issued by the commission upon verification of the candidate's personal identification (fingerprinting) and verification that he or she meets the character and fitness and background requirements. The bill would require that each certificate be issued initially for a period of 5 years and may be renewed. The bill would also authorize the commission to establish a fee for the certificate. The bill also requires the CTC to provide a copy of an applicant's criminal history record to the applicant, if the applicant is denied a license due, at least in part, to the applicant's criminal history record, if the applicant for an ASCC makes a written request, as specified. This bill would not apply to parent volunteers who do not supervise, direct, or coach a pupil activity.

### Background

The Education Code currently allows school districts to employ on a part-time basis "walk-on" coaches and supervisors of other student activities such as yearbook, band, chorus and cheerleading. In some cases, because of severe budget shortfalls the "walk-on" coaches are volunteers or are paid by parent or booster clubs. If the "walk-on" coaches are paid employees, they are currently required to be fingerprinted pursuant to Education Code sections 35021<sup>1</sup>, 45125<sup>2</sup> and 45125.1<sup>3</sup>. Some, but not all, school districts

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<sup>1</sup> Specifies, notwithstanding any other law, any person, except a person required to register as a sex offender pursuant to Section 290 of the Penal Code, may be permitted by the governing board of any school district to perform the duties specified in Section 44814 or 44815 related to supervising pupils during breakfast, lunch or other nutrition period, or to serve as a non-teaching volunteer aide under the immediate supervision and direction of the certificated personnel of the district to perform non-instructional work which serves to assist the certificated personnel in performance of teaching and administrative responsibilities.

<sup>2</sup> Requires the governing board of any school district to require each person to be employed in a position not requiring certification qualifications to have two fingerprint cards bearing the legible rolled and flat impressions of the person's fingerprints together with a personal description of the applicant prepared by a local public law enforcement agency having jurisdiction in the area of the school district, which agency shall transmit the cards, together with the fee required, to the Department of Justice; except that any district, or districts with a common board, may process the fingerprint cards if the district so elects.

extend the fingerprint requirements to volunteers. Similarly, those personnel paid by parent or booster clubs would not be subject to existing law. Under current law the only prohibition against employment is that a person required to register as a sex offender pursuant to section 290 of the Penal Code may not be employed. Other convictions including sex and drug offenses and serious and violent felonies do not bar employment. Under current law there is no provision requiring a character and fitness review of past employment.

### **Commission Activity**

In addition to its other responsibilities, the Commission through the statutorily created Committee of Credentials, enforces professional conduct standards and monitors the moral fitness of credential applicants and holders in order to ensure a high level of public confidence in California teachers and other credentialed public school employees. The Commission has the authority to discipline an applicant or holder for fitness-related misconduct. Applications and credentials may be adversely affected based on the applicant's or holder's immoral or unprofessional conduct, evident unfitness for service, refusal to obey laws regulating certified duties, unjustified refusal to perform under an employment contract, addiction to intoxicating beverages or controlled substances, commission of any act of moral turpitude, or intentional fraud or deceit in an application

Under current law, applicants for and holders of a document issued by the Commission are subject to discipline under the following circumstances:

1. Immediate suspension of a credential when the holder has been charged with certain sex or controlled substance offenses and denial of an application or revocation upon conviction, except in the case of a no contest conviction to a violation of subdivision (d) of Section 647 of the Penal Code where the credential is suspended until an administrative review has been completed by the Commission. (Education Code 44425)
2. Denial or revocation of a credential upon conviction of certain sex or controlled substance offenses. (Education Code 44424)

Current law also authorizes applicants and credential holders whose credential has been revoked as a result of a misdemeanor sex offense that does not require registration as a sex offender, to apply for a credential or reinstatement of the credential if the accusation has been dismissed and the individual has been released from all penalties, as specified. (Education Code 44425)

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<sup>3</sup> Specifies that the requirements for fingerprints shall not apply to an entity providing any of the following services: school and classroom janitorial; school-site administrative; school-site grounds and landscape maintenance; pupil transportation; or, school-site food-related, when the school district determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee has limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others.

**Fiscal Impact**

Although staff is unable to determine the numbers of people who would be affected by AB 1025, the bill would be considered revenue neutral and covered by the fee paid by the applicant.

**Organizational Positions  
Support**

None noted on this version of the bill

**Opposition**

None noted on this version of the bill

**Relevant Commission Legislative Policies**

Policy 2: The Commission supports legislation that proposes to maintain or establish high standards of fitness and conduct for public school educators in California and opposes legislation that would lower standards of fitness or conduct for public school educators.

**Reason for Suggested Position**

AB 1025 was passed with unanimous support by both the Assembly Education Committee and the Assembly Appropriations Committee. Under this measure all employees and certain volunteers would be subject to uniform fingerprinting and background check requirements prior to working in positions that involve a great deal of interaction with public school students. Requiring a document that is issued by the CTC ensures state-wide monitoring and there is less risk that such persons would be able to move to another school district without the new school district's awareness of past misconduct. Under current law when a coach or supervisor of an extra-curricular activity is asked to leave because of allegations of (non-criminal) misconduct there is no oversight or resource to alert future school employers. According to the author's office this lack of uniformity and the fact that not all districts currently require fingerprinting of volunteer coaches and other activity supervisors poses a serious and immediate threat to California's school aged youth. The author introduced the bill after discussions with law enforcement personnel who urged that this was a loophole in current law that needed to be closed. There is no current recourse to ensure that these persons are not subsequently reemployed by a school district and no assurance that they will not engage in the same type of misconduct.

Staff suggests an amendment to AB 1025 to address the portion of the bill that addresses the requirement that the CTC provide a copy of an applicant's criminal history record to the applicant, if the applicant is denied a license due, at least in part, to the applicant's criminal history record, if the applicant for an ASCC makes a written request. Staff would recommend that the bill be amended to provide that the provision requiring disclosure of the criminal history information to the denied applicant should be made applicable to all applicants not just those applying for an ASCC. Providing this information to all applicants is a fairness issue and all applicants should be provided the same disclosure of information not just those covered by the Activity Supervisor

Clearance Certificate. In addition, if the information is to be provided, it would be most efficient to send it together with the denial notification. This would eliminate additional workload because it could become part of established denial procedures. If the CTC is required to furnish the information as a result of a subsequent request it would involve file retrieval, additional mailing and handling all adding additional workload and costs.

For these reasons, staff is recommending a **“Support if Amended”** position on AB 1025.

**Analyst:** Mary Armstrong

**Date of Analysis:** May 22, 2009