

BILL ANALYSIS

H.B. 3270
By: Bohac
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the confusion among public school districts as to whether background checks are supposed to be conducted for employees of a contracting or subcontracting entity and, if so, for which purposes. H.B. 3270 seeks to eliminate this confusion.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

H.B. 3270 amends the Education Code to prohibit a contracting entity or subcontracting entity from permitting an employee with the following characteristics to provide services at an instructional facility that is used predominantly for teaching the foundation curriculum and an enrichment curriculum: an employee who, during the preceding 30 years, was convicted of a felony categorized as an offense against the person, an offense on conviction of which a defendant is required to register as a sex offender, or an offense under the laws of another state or federal law that is equivalent to either offense against a victim who was under 18 years of age or was enrolled in a public school; who is not an applicant for or holder of an educator certification; and who is employed by the contracting or subcontracting entity on a project to design, construct, alter, or repair a public work if the employee has or will have continuing duties related to the contracted services and the opportunity for direct contact with students in connection with the employee's continuing duties. The bill establishes the conditions under which a person is not considered to have the opportunity for direct contact with students.

H.B. 3270 requires the contracting entity or subcontracting entity that employs a person for such a public work project to send or ensure that the person sends to the Department of Public Safety (DPS) information that is required by DPS for obtaining national criminal history record information, which may include fingerprints and photographs; obtain all criminal history record information that relates to the person through the criminal history clearinghouse; and certify to the public school district, open-enrollment charter school, shared services arrangement, or contracting entity, as applicable, that the contracting entity or subcontracting entity that employs the person has received all criminal history record information relating to the person. The bill requires a contracting entity to certify to the district, charter school, or shared services arrangement, as applicable, that the contracting entity has obtained written certifications from any subcontracting entity that the subcontracting entity has complied with these requirements as they relate to the subcontracting entity's employees. The bill requires DPS, on receipt of the

required information from a contracting or subcontracting entity, to obtain the person's national criminal history record information and report the results through the criminal history clearinghouse.

H.B. 3270 authorizes a district, charter school, or shared services arrangement to directly obtain through the criminal history clearinghouse the criminal history record information of a person employed for such a public work project. The bill requires a contracting or subcontracting entity that determines the bill's provisions do not apply to an employee to make a reasonable effort to ensure that the conditions or precautions that resulted in that determination continue to exist throughout the time that the contracted services are provided. The bill authorizes a district, charter school, or shared services arrangement, in the event of an emergency, to allow a person employed for such a public work project to enter an instructional facility if the person is accompanied by an employee of the district, school, or arrangement and authorizes a district, charter school, or shared services arrangement to adopt a policy regarding such an emergency. The bill authorizes the commissioner of education to adopt rules to implement the bill's provisions.

H.B. 3270 excludes a contracting entity, subcontracting entity, or other person subject to the bill's provisions from statutory requirements relating to a review of the criminal history record information of certain employees of an entity that contracts with a district, charter school, or shared services arrangement and requires a district, charter school, or shared services arrangement to ensure that such a contract entity has obtained all criminal history record information as required by the bill.

H.B. 3270 amends the Government Code to make a conforming change.

EFFECTIVE DATE

September 1, 2017.