

BILL ANALYSIS

Senate Research Center
85R9688 KKA-F

H.B. 3270
By: Bohac (Taylor, Larry)
Education
5/17/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3270 clarifies that full criminal background checks should be performed on all employees of a contractor or subcontractor working at a public school who will have direct contact with students while performing their job.

H.B. 3270 distinguishes them from other employees who do not have direct contact with students while performing their job who do not need to go through the same thorough background checks.

H.B. 3270 amends current law relating to criminal background checks for persons employed by certain public school contractors.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 22.08341, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amend Section 22.0834, Education Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Creates an exception under Subsection (a-1).

(a-1) Provides that this section (Criminal History Record Information Review of Certain Contract Employees) does not apply to a contracting entity, subcontracting entity, or other person subject to Section 22.08341.

SECTION 2. Amends Subchapter C, Chapter 22, Education Code, by adding Section 22.08341, as follows:

Sec. 22.08341. CRIMINAL HISTORY RECORD INFORMATION REVIEW BY CERTAIN PUBLIC WORKS CONTRACTORS. (a) Defines "contracting entity," "instructional facility," and "subcontracting entity."

(b) Provides that this subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B (Certification of Educators), Chapter 21 (Educators), and who is employed by a contracting or subcontracting entity on a project to design, construct, alter, or repair a public work if the person has or will have:

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

(2) the opportunity for direct contact with students in connection with the person's continuing duties.

(c) Provides that, for purposes of Subsection (b), a person does not have the opportunity for direct contact with students if the public work meets certain criteria.

(d) Prohibits a contracting entity or subcontracting entity from permitting an employee to whom Subsection (b) applies to provide services at an instructional facility if the employee, during the preceding 30 years, was convicted any of certain offenses and the victim was under 18 years of age or was enrolled in a public school.

(e) Requires a contracting entity or subcontracting entity that employs the person, for a person to whom Subsection (b) applies, to:

(1) send or ensure that the person sends to the Texas Department of Public Safety (DPS) information that is required by DPS for obtaining national criminal history record information, which may include fingerprints and photographs;

(2) obtain all criminal history record information that relates to the person through the criminal history clearinghouse as provided by Section 411.0845 (Criminal History Clearinghouse), Government Code; and

(3) certify to the 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.

(f) Requires a contracting entity to certify to the school district, open-enrollment 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 Subsection (e) as it relates to the subcontracting entity's employees.

(g) Requires DPS, on receipt of the information described by Subsection (e)(1), to 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.

(h) Authorizes a school district, open-enrollment charter school, or shared services arrangement to directly obtain the criminal history record information of a person to whom Subsection (b) applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(i) Requires the contracting or subcontracting entity, if a contracting entity or subcontracting entity determines that Subsection (b) does not apply to an employee, to make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Subsection (b) does not apply to the employee continue to exist throughout the time that the contracted services are provided.

(j) Authorizes a school district, open-enrollment charter school, or shared services arrangement, in the event of an emergency, to allow a person to whom Subsection (b) applies to enter an instructional facility if the person is accompanied by an employee of the district, school, or arrangement. Authorizes a school district, open-enrollment charter school, or shared services arrangement to adopt a policy regarding an emergency for purposes of this subsection.

(k) Authorizes the commissioner of education to adopt rules necessary to implement this section.

SECTION 3. Amends Section 22.085(c), Education Code, to require a school district, open-enrollment charter school, or shared services arrangement to ensure that an entity that the district, school, or shared services arrangement contracts with for services has obtained all criminal

history record information as required by Section 22.0834 or 22.08341, rather than as required by Section 22.0834.

SECTION 4. Amends Section 411.097(a), Government Code, to provide that certain entities are entitled to obtain certain criminal history record information that relates to a person who is, among certain criteria, an employee of or applicant for employment by an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by Section 22.0834 or 22.08341, Education Code, rather than as provided by Section 22.0834, Education Code.

SECTION 5. Makes application of Section 22.0834, Education Code, as amended by this Act, and Section 22.08341, Education Code, as added by this Act, prospective.

SECTION 6. Effective date: September 1, 2017.