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By: Bohac

H.B. No. 3270

A BILL TO BE ENTITLED

AN ACT

relating to criminal background checks for persons employed by certain public school contractors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

(a) Except as provided by Subsection (a-1), this [~~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.

(a-1) This section does not apply to a contracting entity, subcontracting entity, or other person subject to Section 22.08341.

SECTION 2. Subchapter C, Chapter 22, Education Code, is amended by adding Section 22.08341 to read as follows:

Sec. 22.08341. CRIMINAL HISTORY RECORD INFORMATION REVIEW BY CERTAIN PUBLIC WORKS CONTRACTORS. (a) In this section:

(1) "Contracting entity" means an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement to provide engineering, architectural, or construction services to the district, school, or arrangement.

(2) "Instructional facility" has the meaning assigned by Section 46.001.

(3) "Subcontracting entity" means an entity that

contracts with another entity that is not a school district, open-enrollment charter school, or shared services arrangement to provide engineering, architectural, or construction services to a school district, open-enrollment charter school, or shared services arrangement.

(b) This subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, 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) For purposes of Subsection (b), a person does not have the opportunity for direct contact with students if:

(1) the public work does not involve the construction,

alteration, or repair of an instructional facility;

(2) for a public work that involves construction of a new instructional facility, the person's duties related to the contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or

(3) for a public work that involves an existing instructional facility:

(A) the public work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and

(B) the contracting entity adopts a policy prohibiting employees, including subcontracting entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.

(d) A contracting entity or subcontracting entity may not

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permit an employee to whom Subsection (b) applies to provide services at an instructional facility if the employee, during the preceding 30 years, was convicted of any of the following offenses and the victim was under 18 years of age or was enrolled in a public school:

(1) a felony offense under Title 5, Penal Code;

(2) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(3) an offense under the laws of another state or federal law that is equivalent to an offense under Subdivision (1) or (2).

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

(1) 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;

(2) obtain all criminal history record information that relates to the person through the criminal history clearinghouse as provided by Section 411.0845, 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) A contracting entity shall 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) On receipt of information described by Subsection (e)(1),

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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.

(h) A school district, open-enrollment charter school, or shared services arrangement may 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) If a contracting entity or subcontracting entity determines that Subsection (b) does not apply to an employee, the contracting or subcontracting entity shall 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) In the event of an emergency, a school district, open-

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enrollment charter school, or shared services arrangement may 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. A school district, open-enrollment charter school, or shared services arrangement may adopt a policy regarding an emergency for purposes of this subsection.

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

SECTION 3. Section 22.085(c), Education Code, is amended to read as follows:

(c) A school district, open-enrollment charter school, or shared services arrangement may not allow a person who is an employee of or applicant for employment by an entity that contracts with the district, school, or shared services arrangement to serve at the district or school or for the shared services arrangement if the district, school, or shared services arrangement obtains information described by Subsection (a) through a criminal history



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record information review concerning the employee or applicant. A school district, open-enrollment charter school, or shared services arrangement must 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.

SECTION 4. Section 411.097(a), Government Code, is amended to read as follows:

(a) A school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement, or an entity that contracts to provide services to a school district, charter school, or shared services arrangement, is entitled to obtain from the department criminal history record information maintained by the department that the district, school, service center, shared services arrangement, or entity is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a

person who is:

(1) an applicant for employment by the district, school, service center, or shared services arrangement;

(2) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district, school, service center, or shared services arrangement to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported; or

(3) 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.

SECTION 5. Section 22.0834, Education Code, as amended by this Act, and Section 22.08341, Education Code, as added by this Act, apply only to a public works contract executed on or after the

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effective date of this Act. A public works contract executed  
before the effective date of this Act is governed by the law in  
effect on the date the contract was executed, and the former law is  
continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2017.