

1-1 By: Bohac (Senate Sponsor - Taylor of Galveston) H.B. No. 3270
 1-2 (In the Senate - Received from the House May 10, 2017;
 1-3 May 10, 2017, read first time and referred to Committee on
 1-4 Education; May 22, 2017, reported favorably by the following vote:
 1-5 Yeas 7, Nays 2; May 22, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Taylor of Galveston	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Campbell	X			
1-11 Hall			X	
1-12 Huffines		X		
1-13 Hughes	X			
1-14 Seliger		X		
1-15 Taylor of Collin	X			
1-16 Uresti	X			
1-17 West			X	

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to criminal background checks for persons employed by
 1-22 certain public school contractors.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 22.0834, Education Code, is amended by
 1-25 amending Subsection (a) and adding Subsection (a-1) to read as
 1-26 follows:

1-27 (a) Except as provided by Subsection (a-1), this [This]
 1-28 subsection applies to a person who is not an applicant for or holder
 1-29 of a certificate under Subchapter B, Chapter 21, and who on or after
 1-30 January 1, 2008, is offered employment by an entity that contracts
 1-31 with a school district, open-enrollment charter school, or shared
 1-32 services arrangement to provide services, if:

1-33 (1) the employee or applicant has or will have
 1-34 continuing duties related to the contracted services; and

1-35 (2) the employee or applicant has or will have direct
 1-36 contact with students.

1-37 (a-1) This section does not apply to a contracting entity,
 1-38 subcontracting entity, or other person subject to Section 22.08341.

1-39 SECTION 2. Subchapter C, Chapter 22, Education Code, is
 1-40 amended by adding Section 22.08341 to read as follows:

1-41 Sec. 22.08341. CRIMINAL HISTORY RECORD INFORMATION REVIEW
 1-42 BY CERTAIN PUBLIC WORKS CONTRACTORS. (a) In this section:

1-43 (1) "Contracting entity" means an entity that
 1-44 contracts directly with a school district, open-enrollment charter
 1-45 school, or shared services arrangement to provide engineering,
 1-46 architectural, or construction services to the district, school, or
 1-47 arrangement.

1-48 (2) "Instructional facility" has the meaning assigned
 1-49 by Section 46.001.

1-50 (3) "Subcontracting entity" means an entity that
 1-51 contracts with another entity that is not a school district,
 1-52 open-enrollment charter school, or shared services arrangement to
 1-53 provide engineering, architectural, or construction services to a
 1-54 school district, open-enrollment charter school, or shared
 1-55 services arrangement.

1-56 (b) This subsection applies to a person who is not an
 1-57 applicant for or holder of a certificate under Subchapter B,
 1-58 Chapter 21, and who is employed by a contracting or subcontracting
 1-59 entity on a project to design, construct, alter, or repair a public
 1-60 work if the person has or will have:

1-61 (1) continuing duties related to the contracted

2-1 services; and

2-2 (2) the opportunity for direct contact with students
 2-3 in connection with the person's continuing duties.

2-4 (c) For purposes of Subsection (b), a person does not have
 2-5 the opportunity for direct contact with students if:

2-6 (1) the public work does not involve the construction,
 2-7 alteration, or repair of an instructional facility;

2-8 (2) for a public work that involves construction of a
 2-9 new instructional facility, the person's duties related to the
 2-10 contracted services will be completed not later than the seventh
 2-11 day before the first date the facility will be used for
 2-12 instructional purposes; or

2-13 (3) for a public work that involves an existing
 2-14 instructional facility:

2-15 (A) the public work area contains sanitary
 2-16 facilities and is separated from all areas used by students by a
 2-17 secure barrier fence that is not less than six feet in height; and

2-18 (B) the contracting entity adopts a policy
 2-19 prohibiting employees, including subcontracting entity employees,
 2-20 from interacting with students or entering areas used by students,
 2-21 informs employees of the policy, and enforces the policy at the
 2-22 public work area.

2-23 (d) A contracting entity or subcontracting entity may not
 2-24 permit an employee to whom Subsection (b) applies to provide
 2-25 services at an instructional facility if the employee, during the
 2-26 preceding 30 years, was convicted of any of the following offenses
 2-27 and the victim was under 18 years of age or was enrolled in a public
 2-28 school:

2-29 (1) a felony offense under Title 5, Penal Code;

2-30 (2) an offense on conviction of which a defendant is
 2-31 required to register as a sex offender under Chapter 62, Code of
 2-32 Criminal Procedure; or

2-33 (3) an offense under the laws of another state or
 2-34 federal law that is equivalent to an offense under Subdivision (1)
 2-35 or (2).

2-36 (e) For a person to whom Subsection (b) applies, the
 2-37 contracting entity or subcontracting entity that employs the person
 2-38 shall:

2-39 (1) send or ensure that the person sends to the
 2-40 department information that is required by the department for
 2-41 obtaining national criminal history record information, which may
 2-42 include fingerprints and photographs;

2-43 (2) obtain all criminal history record information
 2-44 that relates to the person through the criminal history
 2-45 clearinghouse as provided by Section 411.0845, Government Code; and

2-46 (3) certify to the school district, open-enrollment
 2-47 charter school, shared services arrangement, or contracting
 2-48 entity, as applicable, that the contracting entity or
 2-49 subcontracting entity that employs the person has received all
 2-50 criminal history record information relating to the person.

2-51 (f) A contracting entity shall certify to the school
 2-52 district, open-enrollment charter school, or shared services
 2-53 arrangement, as applicable, that the contracting entity has
 2-54 obtained written certifications from any subcontracting entity
 2-55 that the subcontracting entity has complied with Subsection (e) as
 2-56 it relates to the subcontracting entity's employees.

2-57 (g) On receipt of information described by Subsection
 2-58 (e)(1), the department shall obtain the person's national criminal
 2-59 history record information and report the results through the
 2-60 criminal history clearinghouse as provided by Section 411.0845,
 2-61 Government Code.

2-62 (h) A school district, open-enrollment charter school, or
 2-63 shared services arrangement may directly obtain the criminal
 2-64 history record information of a person to whom Subsection (b)
 2-65 applies through the criminal history clearinghouse as provided by
 2-66 Section 411.0845, Government Code.

2-67 (i) If a contracting entity or subcontracting entity
 2-68 determines that Subsection (b) does not apply to an employee, the
 2-69 contracting or subcontracting entity shall make a reasonable effort

3-1 to ensure that the conditions or precautions that resulted in the
3-2 determination that Subsection (b) does not apply to the employee
3-3 continue to exist throughout the time that the contracted services
3-4 are provided.

3-5 (j) In the event of an emergency, a school district,
3-6 open-enrollment charter school, or shared services arrangement may
3-7 allow a person to whom Subsection (b) applies to enter an
3-8 instructional facility if the person is accompanied by an employee
3-9 of the district, school, or arrangement. A school district,
3-10 open-enrollment charter school, or shared services arrangement may
3-11 adopt a policy regarding an emergency for purposes of this
3-12 subsection.

3-13 (k) The commissioner may adopt rules necessary to implement
3-14 this section.

3-15 SECTION 3. Section 22.085(c), Education Code, is amended to
3-16 read as follows:

3-17 (c) A school district, open-enrollment charter school, or
3-18 shared services arrangement may not allow a person who is an
3-19 employee of or applicant for employment by an entity that contracts
3-20 with the district, school, or shared services arrangement to serve
3-21 at the district or school or for the shared services arrangement if
3-22 the district, school, or shared services arrangement obtains
3-23 information described by Subsection (a) through a criminal history
3-24 record information review concerning the employee or applicant. A
3-25 school district, open-enrollment charter school, or shared
3-26 services arrangement must ensure that an entity that the district,
3-27 school, or shared services arrangement contracts with for services
3-28 has obtained all criminal history record information as required by
3-29 Section 22.0834 or 22.08341.

3-30 SECTION 4. Section 411.097(a), Government Code, is amended
3-31 to read as follows:

3-32 (a) A school district, charter school, private school,
3-33 regional education service center, commercial transportation
3-34 company, or education shared services arrangement, or an entity
3-35 that contracts to provide services to a school district, charter
3-36 school, or shared services arrangement, is entitled to obtain from
3-37 the department criminal history record information maintained by
3-38 the department that the district, school, service center, shared
3-39 services arrangement, or entity is required or authorized to obtain
3-40 under Subchapter C, Chapter 22, Education Code, that relates to a
3-41 person who is:

3-42 (1) an applicant for employment by the district,
3-43 school, service center, or shared services arrangement;

3-44 (2) an employee of or an applicant for employment with
3-45 a public or commercial transportation company that contracts with
3-46 the district, school, service center, or shared services
3-47 arrangement to provide transportation services if the employee
3-48 drives or the applicant will drive a bus in which students are
3-49 transported or is employed or is seeking employment as a bus monitor
3-50 or bus aide on a bus in which students are transported; or

3-51 (3) an employee of or applicant for employment by an
3-52 entity that contracts to provide services to a school district,
3-53 charter school, or shared services arrangement as provided by
3-54 Section 22.0834 or 22.08341, Education Code.

3-55 SECTION 5. Section 22.0834, Education Code, as amended by
3-56 this Act, and Section 22.08341, Education Code, as added by this
3-57 Act, apply only to a public works contract executed on or after the
3-58 effective date of this Act. A public works contract executed before
3-59 the effective date of this Act is governed by the law in effect on
3-60 the date the contract was executed, and the former law is continued
3-61 in effect for that purpose.

3-62 SECTION 6. This Act takes effect September 1, 2017.

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