

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

CONFERENCE

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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.

SENATE VERSION (IE)

CONFERENCE

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(d) A contracting entity or subcontracting entity may not 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

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

(e) as it relates to the subcontracting entity's employees.

(g) On receipt of information described by Subsection (e)(1), 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-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:

SENATE VERSION (IE)

SECTION 3. Same as House version.

CONFERENCE

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

(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 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

SENATE VERSION (IE)

SECTION 4. Same as House version.

CONFERENCE

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 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.

No equivalent provision.

No equivalent provision.

SENATE VERSION (IE)

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION \_\_. Article 42.01, Code of Criminal Procedure, is amended by adding Section 12 to read as follows:

Sec. 12. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0192. [FA1]

SECTION \_\_. Chapter 42, Code of Criminal Procedure, is

CONFERENCE

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

amended by adding Article 42.0192 to read as follows:

Art. 42.0192. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE.

(a) In the trial of an offense described by Section 814.013 or 824.009, Government Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the offense committed was related to the defendant's employment described by Section 814.013(b) or Section 824.009(b), Government Code, while a member of the Employees Retirement System of Texas or the Teacher Retirement System of Texas.

(b) A judge who makes the affirmative finding described by this article shall make the determination and provide the notice required by Section 814.013(l) or 824.009(l), Government Code, as applicable. [FA1]

No equivalent provision.

SECTION \_\_. Subchapter A, Chapter 814, Government Code, is amended by adding Section 814.013 to read as follows:

Sec. 814.013. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY. (a) In this section, "qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code, or a federal offense that contains elements that are substantially similar to the elements of a listed felony offense:

(1) Section 15.01 (criminal attempt), Section 15.02 (criminal conspiracy), Section 15.03 (criminal solicitation), or Section 15.031 (criminal solicitation of a minor);

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (2) Section 19.02 (murder), Section 19.03 (capital murder), Section 19.04 (manslaughter), or Section 19.05 (criminally negligent homicide);
- (3) Section 20.02 (unlawful restraint);
- (4) Section 20.03 (kidnapping) or Section 20.04 (aggravated kidnapping);
- (5) Section 20.05 (smuggling of persons);
- (6) Section 20A.02 (trafficking of persons);
- (7) Section 21.02 (continuous sexual abuse of young child or children);
- (8) Section 21.11 (indecenty with a child);
- (9) Section 21.12 (improper relationship between educator and student);
- (10) Section 22.01 (assault);
- (11) Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault);
- (12) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (13) Section 22.041 (abandoning or endangering child);
- (14) Section 33.021 (online solicitation of a minor);
- (15) Section 43.05 (compelling prostitution);
- (16) Section 43.25 (sexual performance by a child);
- (17) Section 43.251 (employment harmful to children); or
- (18) Section 43.26 (possession or promotion of child pornography).
- (b) This section applies only to a person who is a member or an annuitant of the retirement system and is or was an employee of the Texas Juvenile Justice Department in one of that department's institutional schools.
- (c) Except as provided by Subsection (e), a person is not eligible to receive a service retirement annuity from the retirement system if the person is convicted of a qualifying



**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

felony the victim of which is a student.

(d) The retirement system shall suspend payments of an annuity to a person who is not eligible to receive a service retirement annuity under Subsection (c), as determined by the retirement system, on receipt by the retirement system of:

(1) notice of a conviction for a qualifying felony under Subsection (f) or (l);

(2) notice of a conviction for a qualifying felony from a district court or district attorney; or

(3) any other information the retirement system determines by rule is sufficient to establish a conviction for a qualifying felony.

(e) A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (g).

(f) Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to the retirement system. The notice must comply with rules adopted by the board of trustees under Subsection (k).

(g) A person who is not eligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the person's retirement annuity contributions, including interest earned on those contributions.

(h) Benefits payable to an alternate payee under Chapter 804

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

who is recognized by a domestic relations order established before September 1, 2017, are not affected by a person's ineligibility to receive a retirement annuity under Subsection (c).

(i) On conviction of a person for a qualifying felony, a court may, in the interest of justice and in the same manner as in a divorce proceeding, award half of the service retirement annuity forfeited by the person as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code. The amount awarded to the innocent spouse may not be converted to community property.

(j) Ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(k) The board of trustees of the retirement system shall adopt rules and procedures to implement this section.

(l) A court shall notify the retirement system of the terms of a person's conviction for a qualifying felony. [FA1]

No equivalent provision.

SECTION \_\_. Subchapter A, Chapter 824, Government Code, is amended by adding Section 824.009 to read as follows:

Sec. 824.009. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY. (a) In this section, "qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code, or a federal offense that contains elements that are substantially similar to the elements of a listed felony offense:

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

- (1) Section 15.01 (criminal attempt), Section 15.02 (criminal conspiracy), Section 15.03 (criminal solicitation), or Section 15.031 (criminal solicitation of a minor);
- (2) Section 19.02 (murder), Section 19.03 (capital murder), Section 19.04 (manslaughter), or Section 19.05 (criminally negligent homicide);
- (3) Section 20.02 (unlawful restraint);
- (4) Section 20.03 (kidnapping) or Section 20.04 (aggravated kidnapping);
- (5) Section 20.05 (smuggling of persons);
- (6) Section 20A.02 (trafficking of persons);
- (7) Section 21.02 (continuous sexual abuse of young child or children);
- (8) Section 21.11 (indecenty with a child);
- (9) Section 21.12 (improper relationship between educator and student);
- (10) Section 22.01 (assault);
- (11) Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault);
- (12) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (13) Section 22.041 (abandoning or endangering child);
- (14) Section 33.021 (online solicitation of a minor);
- (15) Section 43.05 (compelling prostitution);
- (16) Section 43.25 (sexual performance by a child);
- (17) Section 43.251 (employment harmful to children); or
- (18) Section 43.26 (possession or promotion of child pornography).
- (b) This section applies only to a person who is a member or an annuitant of the retirement system and is or was an employee of the public school system.
- (c) Except as provided by Subsection (e), a person is not

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

eligible to receive a service retirement annuity from the retirement system if the person is convicted of a qualifying felony the victim of which is a student.

(d) The retirement system shall suspend payments of an annuity to a person who is not eligible to receive a service retirement annuity under Subsection (c), as determined by the retirement system, on receipt by the retirement system of:

(1) notice of a conviction for a qualifying felony under Subsection (f) or (l);

(2) notice of a conviction for a qualifying felony from a district court or district attorney; or

(3) any other information the retirement system determines by rule is sufficient to establish a conviction for a qualifying felony.

(e) A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (g).

(f) Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to the retirement system. The notice must comply with rules adopted by the board of trustees under Subsection (k).

(g) A person who is not eligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the person's retirement annuity contributions, including

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

interest earned on those contributions.

(h) Benefits payable to an alternate payee under Chapter 804 who is recognized by a domestic relations order established before September 1, 2017, are not affected by a person's ineligibility to receive a retirement annuity under Subsection (c).

(i) On conviction of a person for a qualifying felony, a court may, in the interest of justice and in the same manner as in a divorce proceeding, award half of the service retirement annuity forfeited by the person as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code. The amount awarded to the innocent spouse may not be converted to community property.

(j) Ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(k) The board of trustees of the retirement system shall adopt rules and procedures to implement this section.

(l) A court shall notify the retirement system of the terms of a person's conviction of a qualifying felony. [FA1]

No equivalent provision.

SECTION \_\_. Section 12, Article 42.01, Code of Criminal Procedure, and Article 42.0192, Code of Criminal Procedure, as added by this Act, apply only to a judgment of conviction entered on or after the effective date of this Act. [FA1]

No equivalent provision.

SECTION \_\_. (a) Not later than December 31, 2017, the board of trustees of the Employees Retirement System of Texas shall adopt the rules necessary to implement Section

**House Bill 3270**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

814.013, Government Code, as added by this Act.  
(b) Not later than December 31, 2017, the board of trustees of the Teacher Retirement System of Texas shall adopt the rules necessary to implement Section 824.009, Government Code, as added by this Act. [FA1]

No equivalent provision.

SECTION \_\_. Sections 814.013 and 824.009, Government Code, as added by this Act, apply only to an offense committed on or after the effective date of rules adopted in accordance with those sections. An offense committed before that date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of rules adopted in accordance with Sections 814.013 and 824.009, Government Code, as added by this Act, if any element of the offense occurred before that date. [FA1]