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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 2nd Session, 2018

Bill Number	<u>SB234</u>	Sponsor	<u>Ivey-Soto/Adkins</u>
Tracking Number	<u>.209852.1</u>	Committee Referrals	<u>SEC/SJC</u>
Short Title	<u>School Personnel Background Checks</u>		
Analyst	<u>Force</u>	Original Date	<u>2/1/18</u>
		Last Updated	<u>2/12/18</u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 234 (SB234) defines “background check” as a process approved by the Public Education Department (PED) requiring all applicants and school district employees to submit a full set of fingerprints, so that a state and national criminal history check may be completed. The bill amends the School Personnel Act to require all charter school governing bodies to develop policies and procedures to require background checks of their employees and other persons allowed unsupervised access to students of public schools, as is already required of local school boards and regional education cooperatives (RECs). No person may be hired without having completed the background check. The bill further requires all school district and charter school employees, regardless of their date of hire, to undergo a fingerprint-based background check, and requires any licensed employee who has been convicted of anything involving moral turpitude to report the conviction to a designated administrator. Finally, the bill requires the background check of all persons seeking an alternative level 1 license, or any deaf or hard of hearing person seeking any level alternative license.

FISCAL IMPACT

SB234 does not contain an appropriation.

The fiscal impact on school districts, charter school governing boards, and RECs should be minimal, as the cost of background checks is borne by the employee or applicant.

SUBSTANTIVE ISSUES

While child abuse remains a problem across the country, instances involving school employees are only a fraction of the total of such cases; nevertheless, incidents of abuse that do involve school personnel are magnets for public attention. As a result, background checks for school personnel have become more frequent, intense, and potentially intrusive, though requirements vary from state to state.

The National Center for Missing and Exploited Children suggests that states should conduct national fingerprint checks on all employees who have contact with children, including teachers, volunteers, contractors, and other school employees. Further, states should require regular checks on current school employees every year or two after initial hire, more frequently than most states currently require.

SB234 expands current requirements for background checks to establish a mandatory reporting requirement for all licensed school employees who have been convicted of any felony or misdemeanor involving moral turpitude to report the conviction to a designated administrator. Current requirements place the onus of reporting to PED school employees' convictions on superintendents, charter school administrators, and RECs, and allows the Secretary of Public Education to suspend, revoke, or refuse to renew the license of an administrator who fails in their duty to report these convictions. However, the expanded requirement for licensed employees to report any of their felony or misdemeanor convictions to a designated administrator does not appear to include any sanctions for noncompliance.

ADMINISTRATIVE IMPLICATIONS

Administrative impacts under the bill affecting school districts and RECs should be minimal, as these entities have already been performing most of the requirements outlined in the bill. Charter school governing bodies, however, would be required to develop their own policies and procedures to administer the required background checks.

OTHER SIGNIFICANT ISSUES

On January 28, 2016, PED and the Department of Public Safety issued a comprehensive report of school background check policies that noted:

- 183 school districts and charter schools submitted board-approved background check policies, while one school district and four charter schools failed to make these submissions;
- 184 school districts and charter schools submitted written assurances that their board approved background check policies comply with state law, and that they are in compliance with these policies, while one school district and three charter schools failed to make these assurances;
- School districts and charter schools reported that 14 of 1,758 administrators do not have a required background check on file, and two school districts and seven charter schools failed to report data on administrators; and
- School districts and charter schools reported that 71 of 5,253 newly hired employees do not have a required background check on file, and three school districts and six charter schools failed to report data on newly hired employees.

RELATED BILLS

*HB267, Human Svcs. Dept. Background Checks, which requires background checks of prospective and current Human Services Department employees with access to sensitive, confidential, or private information for applicants and recipients of public assistance.

HJM12, Notify FBI of Certain Gun Purchase Attempts, which requests the Federal Bureau of Investigation to notify New Mexico law enforcement agencies when a person prohibited from purchasing a gun tries to do so in New Mexico.

SOURCES OF INFORMATION

- LESC Files

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