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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>SB383/aSJC</u>	Sponsor	<u>Stewart/Sariñana</u>
Tracking Number	<u>224143.3SA</u>	Committee Referrals	<u>SEC/SJC/HEC/HJC</u>
Short Title	<u>Public Ed. Background Check Process</u>		
Analyst	<u>Hoxie</u>	Original Date	<u>2/16/2023</u>
		Last Updated	<u>3/6/2023</u>

BILL SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 383 (SB383/aSJC) authorizes a court of competent jurisdiction to require compliance with discovery requests or subpoenas for criminal history information that would otherwise be confidential under provisions of this bill.

Synopsis of Original Bill

Senate Bill 383 (SB383) amends several sections of the School Personnel Act relating to criminal history record checks of public school employees.

First, SB383 amends the definition of “instructional support provider” to include attendance coaches, practical nurses, school health assistants, school business officials, rehabilitation counselors, athletic coaches, educational alcohol and drug abuse counselors, and substance abuse associates.

Second, SB383 requires a person applying for a license or certificate to work in a public school to undergo a criminal history record check. SB383 further specifies the license and certificates subject to a criminal history record check.

Third, SB383 requires licensure applicants to pay for the cost of their Federal Bureau of Investigation (FBI) background check and specifies that the Public Education Department (PED) will keep the results of the background check confidential.

Finally, SB383 specifies the procedure for conducting a criminal history record check. SB383 specifies the Department of Public Safety (DPS) will conduct a state-level criminal history record check and will share fingerprint data with the FBI to conduct a federal-level criminal history record check. DPS will review the information obtained through criminal history record checks and compile a report for PED.

The bill has an effective date of July 1, 2023.

FISCAL IMPACT

The bill does not contain an appropriation.

SUBSTANTIVE ISSUES

Background Checks for Public School Employees. Public school employees, including licensed school personnel, are required to undergo a criminal history background check before they can begin employment. Under current law, any school employee providing instructional support services, teaching, or supervising an instructional program must hold a valid license for their respective functions. Section 22-10A-5 NMSA 1978 requires all applicants for initial licensure to provide two fingerprint cards, or the electronic equivalent, to either the PED or their superintendent to obtain the applicant's Federal Bureau of Investigation (FBI) record.

SB383/aSJC adds consistency to the criminal history record check procedure by specifying who is subject to a criminal history record check. SB383/aSJC specifies that any individual applying for any licensure or certificate from PED shall undergo both a state-level and national-level criminal history record check. Provisions of the bill provide the department with access to criminal history record information furnished by DPS and the FBI. SB383/aSJC requires PED to consider criminal history record information as confidential and specifies the department cannot exclude a qualified person from licensure unless that person has a disqualifying criminal conviction.

SB383/aSJC requires applicants or current licensees to pay the cost of obtaining a criminal history record check. According to PED's Licensure Bureau website, the cost of a background check is \$44.

Criminal History Record Check Procedure. SB383/aSJC amends the School Personnel Act to clarify the criminal history record check procedure. Under the bill, an applicant must submit a physical or electronic fingerprint card to DPS to conduct a state-level criminal history review and DPS shall forward the fingerprints to the FBI for a national-level criminal history review. Once the state-level and national-level criminal history record checks are complete, DPS will review information obtained through the background checks and compile the data for PED. PED will then use the compiled information to inform decisions about initial and continuing licensure.

SOURCES OF INFORMATION

- LESC Files

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