
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 949 **Hearing Date:** June 7, 2017
Author: Gipson
Version: February 16, 2017
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: School employees: contracts: sole proprietors: criminal background checks

SUMMARY

This bill requires school districts contracting with a sole proprietor for specified services to prepare and submit the fingerprints of the individual to the Department of Justice (DOJ).

BACKGROUND

Existing law:

- 1) Requires all schools to conduct criminal background checks before employing individuals in non-certificated positions and before contracting with an entity for employees that may interact with pupils.
- 2) Requires any agency that receives criminal history information from DOJ to designate at least one custodian of records, confirmed by a state and federal level criminal background check.
- 3) Specifies that any person who, knowing he or she is not authorized by law to receive criminal history information, knowingly receives or possesses the record or information is guilty of a misdemeanor.
- 4) Authorizes a school district or county office of education to request from DOJ any records involving criminal offenses committed by a prospective volunteer and arrest notification services.
- 5) Prohibits school districts from employing persons convicted of a violent or serious felony, a specified sex offense, or a specified drug offense, unless the conviction is reversed, the person is acquitted, or the charges are dismissed.

ANALYSIS

This bill:

- 1) States that an individual operating as a sole proprietor of an entity that has a specified type of contract with a school district is considered an employee of that entity.

- 2) Requires a school district, to protect the safety of any pupil that may come into contact with an employee of an entity that is a sole proprietorship, to prepare and submit the sole proprietor's fingerprints to the Department of Justice (DOJ) and for the DOJ to ascertain if the individual has been arrested or convicted of any crime.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "As of 2011, state law required all agencies that receive criminal history information from the DOJ to designate at least one "Custodian of Records" duly processed and approved by the DOJ, to be responsible for the security, storage, dissemination, and destruction of criminal record information. Accordingly, each school must have a DOJ-confirmed Custodian of Records who is authorized to receive the criminal history information for all prospective employees.

Sole proprietors are essentially self-employed and therefore do not meet the definition of an employee of the school nor an employee of any vendor entity that can use its DOJ-confirmed Custodian of Records to conduct the clearance. This is a critical measure designed to ensure school safety and security by extending the criminal background check requirement to sole proprietors."

This bill requires additional background checks on individuals working on school campuses to protect the safety of all pupils and staff.

- 2) ***Background checks and sole proprietors.*** While school districts are required to obtain fingerprints and perform background checks on individuals that may interact with pupils, existing law does not contemplate individuals that are neither potential school district employees nor employees of an entity authorized to conduct background checks (e.g. sole proprietors). School districts that currently conduct background checks on sole proprietors in the safety interest of their faculty and students do not have explicit authority to do so because the individual being checked is not considered a school district employee. These school districts could technically be charged with a misdemeanor, however, DOJ does not pursue such charges because of the known gap in current law.
- 3) ***Arguments in support.*** The Legislature has repeatedly established high "fitness" standards for individuals who work near and around vulnerable populations, including children. Several sections of existing education law prohibit individuals convicted of certain crimes from being employed by school districts. Supporters of this measure state that all school employees must undergo rigorous background checks to ensure that students and staff are protected and that individuals convicted of serious crimes are not allowed on campus. Students, parents, and employees are entitled to know that anyone working on a public school campus has been properly vetted.

SUPPORT

Los Angeles Unified School District (Sponsor)
American Federation of State, County, and Municipal Employees

California School Employees Association

OPPOSITION

None received.

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