

AN ACT

relating to educator misconduct and employment sanctions for certain misconduct; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.006, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A superintendent or director of a school district shall complete an investigation of an educator that is based on reasonable cause to believe the educator may have engaged in misconduct described by Subsection (b)(2)(A), despite the educator's resignation from district employment before completion of the investigation.

SECTION 2. Section 21.058, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (c-1), (c-2), and (e) to read as follows:

(a) The procedures described by Subsections (b) and (c) apply ~~[This section applies]~~ only:

(1) to conviction of a felony offense under Title 5, Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) if the victim of the offense is under 18 years of age.

(c) A school district or open-enrollment charter school

1 that receives notice under Subsection (b) of the revocation of a
2 certificate issued under this subchapter shall:

3 (1) immediately remove the person whose certificate
4 has been revoked from campus or from an administrative office, as
5 applicable, to prevent the person from having any contact with a
6 student; and

7 (2) if the person is employed under a probationary,
8 continuing, or term contract under this chapter:

9 (A) suspend the person without pay;

10 (B) provide the person with written notice that
11 the person's contract is void as provided by Subsection (c-2); and

12 (C) [as soon as practicable,] terminate the
13 employment of the person as soon as practicable [in accordance with
14 the person's contract and with this subchapter].

15 (c-1) If a school district or open-enrollment charter
16 school becomes aware that a person employed by the district or
17 school under a probationary, continuing, or term contract under
18 this chapter has been convicted of or received deferred
19 adjudication for a felony offense, and the person is not subject to
20 Subsection (c), the district or school may:

21 (1) suspend the person without pay;

22 (2) provide the person with written notice that the
23 person's contract is void as provided by Subsection (c-2); and

24 (3) terminate the employment of the person as soon as
25 practicable.

26 (c-2) A person's probationary, continuing, or term contract
27 is void if the school district or open-enrollment charter school

1 takes action under Subsection (c)(2)(B) or (c-1)(2).

2 (e) Action taken by a school district or open-enrollment
3 charter school under Subsection (c) or (c-1) is not subject to
4 appeal under this chapter, and the notice and hearing requirements
5 of this chapter do not apply to the action.

6 SECTION 3. Sections 21.12(a) and (b-1), Penal Code, are
7 amended to read as follows:

8 (a) An employee of a public or private primary or secondary
9 school commits an offense if the employee:

10 (1) engages in~~+~~
11 [~~1~~] sexual contact, sexual intercourse, or deviate
12 sexual intercourse with a person who is enrolled in a public or
13 private primary or secondary school at which the employee works;
14 [~~or~~]

15 (2) holds a certificate or permit issued as provided
16 by Subchapter B, Chapter 21, Education Code, or is a person who is
17 required to be licensed by a state agency as provided by Section
18 21.003(b), Education Code, and engages in sexual contact, sexual
19 intercourse, or deviate sexual intercourse with a person the
20 employee knows is:

21 (A) enrolled in a public primary or secondary
22 school in the same school district as the school at which the
23 employee works; or

24 (B) a student participant in an educational
25 activity that is sponsored by a school district or a public or
26 private primary or secondary school, if:

27 (i) students enrolled in a public or

1 private primary or secondary school are the primary participants in
2 the activity; and

3 (ii) the employee provides education
4 services to those participants; or

5 (3) engages in conduct described by Section 33.021,
6 with a person described by Subdivision (1), or a person the employee
7 knows is a person described by Subdivision (2)(A) or (B),
8 regardless of the age of that person.

9 (b-1) It is an affirmative defense to prosecution under this
10 section that:

11 (1) the actor was the spouse of the enrolled person at
12 the time of the offense; or

13 (2) the actor was not more than three years older than
14 the enrolled person and, at the time of the offense, the actor and
15 the enrolled person were in a relationship that began before the
16 actor's employment at a public or private primary or secondary
17 school.

18 SECTION 4. Section 21.006(b-1), Education Code, as added by
19 this Act, applies to an investigation of possible public school
20 educator misconduct begun on or after the effective date of this
21 Act, regardless of whether the alleged misconduct occurred before,
22 on, or after the effective date of this Act.

23 SECTION 5. The change in law made by this Act to Section
24 21.12, Penal Code, applies only to an offense committed on or after
25 the effective date of this Act. An offense committed before the
26 effective date of this Act is governed by the law in effect when the
27 offense was committed, and the former law is continued in effect for

1 that purpose. For purposes of this section, an offense was
2 committed before the effective date of this Act if any element of
3 the offense occurred before that date.

4 SECTION 6. This Act applies beginning with the 2011-2012
5 school year.

6 SECTION 7. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1610 was passed by the House on May 5, 2011, by the following vote: Yeas 144, Nays 1, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1610 on May 24, 2011, by the following vote: Yeas 144, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1610 was passed by the Senate, with amendments, on May 21, 2011, by the following vote: Yeas 20, Nays 10.

Secretary of the Senate

APPROVED: _____

Date

Governor