

SUBJECT: Prohibiting improper conduct between teacher and students

COMMITTEE: Public Education — committee substitute recommended

VOTE: 7 ayes — Huberty, Bernal, Bohac, Gooden, K. King, Koop, VanDeaver
0 nays
4 absent — Allen, Deshotel, Dutton, Meyer

WITNESSES: For — Lonnie Hollingsworth, Texas Classroom Teachers Association; Columba Wilson; (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators)

Against — None

On — Ted Melina Raab, Texas AFT (American Federation of Teachers); Ramiro Canales, Texas Association of School Administrators; Colby Nichols, Texas Rural Education Association, Powell and Leon, LLP; (*Registered, but did not testify*: Von Byer, Laura Moriarty, and Doug Phillips, Texas Education Agency; Rebecca Flores, Texas School Alliance)

BACKGROUND: The Texas Education Agency, which investigates teacher misconduct, notes an increased case volume of inappropriate relationships between educators and students. The agency indicates the number of new cases increased by 20 percent from fiscal 2011 to fiscal 2015.

DIGEST: CSHB 3769 would prohibit sexual conduct between an educator and a student regardless of whether the student was enrolled in the district where the teacher worked. It also would make it a crime for a principal or superintendent to intentionally conceal a teacher's conduct and would require districts to adopt policies on electronic communications between teachers and students.

Educator conduct. The bill would amend Penal Code, sec. 21.12 to make

it a crime for certain employees of a public or private primary or secondary school to engage in sexual contact, sexual intercourse, or deviate sexual intercourse with any student the employee knew was enrolled in any public or private primary or secondary school. An employee would be a teacher, teacher intern or trainee, librarian, diagnostician, or school counselor, regardless of whether the employee held the appropriate certificate, permit, license, or credential for the position.

Principals and superintendents. A principal would be required to notify the district superintendent or charter school director no later than seven business days after the date of an educator's termination or resignation following an alleged incident of misconduct related to abuse or sexual contact with a student or the date the principal found out about an educator's criminal record. A principal who failed to provide the notice on time with intent to conceal an educator's criminal record or alleged misconduct would commit a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

The bill would add an administrative penalty of between \$500 and \$10,000 for superintendents who failed to file a required written report to the State Board for Educator Certification (SBEC) within seven business days concerning an educator's criminal record or alleged incident of misconduct. SBEC could not renew the certification of a superintendent until the penalty was paid. A superintendent or director who failed to file a report on time with intent to conceal an educator's criminal record or alleged misconduct would commit a state-jail felony.

License revocation. In addition to current law, the certification of an educator would be automatically revoked and employment terminated if the educator was placed on deferred adjudication community supervision for an offense for which he or she was required to register as a sex offender, or if the victim was under 18 at the time the offense was committed.

SBEC also could suspend or revoke a certificate, impose other sanctions,

or refuse to issue a certificate to someone who assisted another person in obtaining employment at a district or charter school and knew that person had previously engaged in sexual misconduct with a minor or student in violation of the law. The routine transmission of administrative and personnel files would not constitute assistance.

Investigations. The Commissioner of Education would be authorized, during an investigation by the agency for an alleged incident of misconduct, to issue a subpoena to compel the attendance of a relevant witness. The bill would allow a district or charter school to give the Texas Education Agency a document evaluating the performance of a teacher or administrator for purposes on an investigation. Such a document would remain confidential unless it became part of the record in a contested case.

Training. Educator preparation programs and SBEC continuing education requirements for a classroom teacher would be required to include information on appropriate relationships, boundaries, and communications between educators and students. Continuing education requirements for a principal would include instruction on preventing, recognizing, and reporting prohibited sexual conduct between an educator and a student.

Electronic communication policy. A district would be required to adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district. The policy would allow employees to elect to not disclose personal telephone numbers and e-mail addresses and would be designed to prevent improper electronic communications between employees and students and to instruct employees about the proper method for notifying appropriate local administrators about an incident in which a student engaged in improper communications with the school employee.

Other provisions. The Commissioner of Education could authorize special accreditation investigations to be conducted when a school district for any reason failed to produce requested evidence or an investigation report relating to an educator who was under investigation by SBEC.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

NOTES:

A companion bill, SB 7 by Bettencourt, was placed on the May 5 House general state calendar for second-reading consideration.