

SUBJECT: Defining sexual contact in improper educator, student relationships

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

WITNESSES: For — John Hoover, 216th Judicial District Attorney's Office;
(*Registered, but did not testify*: Brian Hawthorne, Sheriffs' Association of Texas; Barry Haenisch, Texas Association of Community Schools; Mark Terry, Texas Elementary Principals and Supervisors Association; John Chancellor, Texas Police Chiefs Association)

Against — None

BACKGROUND: Penal Code sec. 21.12 governs improper relationships between educators and students. An employee of a public or private primary or secondary school commits an offense if the employee:

- engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person enrolled at the school in which the employee works;
- holds a position at the school and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person whom the employee knows is enrolled at a different school or with a student participant in an educational activity that is sponsored by another school district or school, if students are the primary participants in the activity;
- engages in online solicitation of a minor with a person enrolled at the school in which the employee works, another school, or who is a student participant in an educational activity, regardless of the age of the person.

The offense is a second-degree felony (two to 20 years in prison and an

optional fine of up to \$10,000).

Concerns have been raised that current law is not broad enough to cover certain types of sexual contact between students and school personnel.

DIGEST:

HB 246 would define sexual contact, as it related to offenses of improper relationships between educators and students, as acts committed with the intent to arouse or gratify the sexual desire of any person that involved:

- touching by an employee of a public or private primary or secondary school of the anus, breast, or any part of the genitals of a person enrolled at the school or a student participant in an educational activity; or
- touching of any part of the body of a person enrolled in a public or private primary or secondary school or a student participant with the anus, breast, or any part of the genitals of an employee of the school.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.