

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1230
By: Bettencourt
Education
3/27/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 85th Legislature passed significant reforms to combat educator misconduct. Interested parties contend that there are still disparities in reporting for private schools and loopholes that allow an educator who has an inappropriate relationship with a student in a public school district to then move and obtain employment in private school without the new school ever receiving notice of the inappropriate relationship. Interested parties observe that new laws and protections to combat educator misconduct encompass the public school system and by doing so there are children in private school settings who are less protected than their public school cohorts.

The purpose of C.S.S.B. 1230 is to reduce the risks faced by private schools and private school students by closing loopholes and providing penalties for conduct relating to an inappropriate relationship between an educator and a student.

C.S.S.B. 1230 would provide similar changes to law enacted by S.B. 7, by Bettencourt, 85th Legislature, requiring reporting of misconduct in a private school and ensuring access to such reports by private schools. C.S.S.B. 1230 amends current law relating to improper relationships between educators and students and reporting of educator misconduct, creates a criminal offense and expands the applicability of an existing offense, and authorizes an administrative penalty.

C.S.S.B. 1230 amends current law relating to the reporting of private school educator misconduct.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 21.0062, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education and the State Board of Education in SECTION 7 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 42.018, Code of Criminal Procedure, by adding Subsections (c) and (d), as follows:

(c) Requires the clerk of the court in which the conviction or deferred adjudication is entered, not later than the fifth day after the date a person who is employed by a private school is convicted or granted deferred adjudication on the basis of an offense, to provide to the chief administrative officer of the private school at which the person is employed written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based.

(d) Defines "private school."

SECTION 2. Amends Subchapter A, Chapter 21, Education Code, by adding Section 21.0062, as follows:

Sec. 21.0062. REQUIREMENT TO REPORT MISCONDUCT: PRIVATE SCHOOLS.

(a) Defines "abuse" and "private school educator."

(b) Requires the chief administrative officer of a private school, in addition to the reporting requirement under Section 261.101 (Persons Required to Report; Time to Report), to notify the State Board for Educator Certification (SBEC) if a private school educator:

(1) has a criminal record and the private school obtained information about the educator's criminal record; or

(2) was terminated and there is evidence that the educator abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or a minor.

(c) Requires the chief administrative officer of the private school, if there is evidence that a private school educator may have engaged in misconduct described by Subsection (b) and the educator resigns from employment before completion of the investigation, to submit evidence of misconduct collected to SBEC.

(d) Requires the chief administrative officer of a private school to notify SBEC by filing a report with SBEC not later than the seventh business day after the date the chief administrative officer knew that a private school educator has a criminal record under Subsection (b)(1) or was terminated following an alleged incident of misconduct described by Subsection (b)(2).

(e) Requires a report filed under Subsection (d) to be in writing and in a form described by SBEC.

(f) Authorizes any person who knows or has reason to believe that a private school educator engaged in the misconduct described by Subsection (b)(2) to file a report with SBEC under this section.

(g) Establishes that a chief administrative officer of a private school or any other person who in good faith files a report with SBEC under this section or communicates with a chief administrative officer or other administrator of a private school concerning the criminal record of or an alleged incident of misconduct by a private school educator is immune from civil or criminal liability that might otherwise be incurred or imposed.

(h) Requires the name of a student or minor who is the victim of abuse or unlawful conduct by a private school educator to be included in a report filed under this section, but the name of the student or minor is not public information under Chapter 552 (Public Information), Government Code.

(i) Requires SBEC to propose rules as necessary to implement this section.

SECTION 3. Amends Section 21.009(a), Education Code, to provide that an applicant for a position described by Section 21.003(a) (relating to prohibiting a person from being employed in a certain position by a school district without the appropriate certification or permit) or (b) (relating to prohibiting a person from being employed by a school district for a certain position if the person is not licensed by the state agency that licenses that profession) with a private school, among other listed entities, is required to submit a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

SECTION 4. Amends Section 21.0581(a), Education Code, as follows:

(a) Authorizes SBEC to suspend or revoke a certificate held by a person under this subchapter, impose other sanctions against the person, or refuse to issue a certificate to the person under this subchapter if:

(1) the person assists another person in obtaining employment at a school district, private school, or open-enrollment charter school, other than by the routine transmission of administrative and personnel files; and

(2) the person knew that the other person has previously engaged in sexual misconduct with a minor or student in violation of the law.

SECTION 5. Amends Sections 21.355(c) and (d), Education Code, as follows:

(c) Requires, rather than authorizes, a school district or any open-enrollment charter school, at the request of a school district, open-enrollment charter school, or private school at which a teacher or administrator has applied for employment, to give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.

(d) Requires, rather than authorizes, a school district or open-enrollment charter school to give the Texas Education Agency (TEA) a document evaluating the performance of a teacher or administrator employed by the district or school for purposes of an investigation conducted by TEA.

SECTION 6. Makes application of Article 42.018(c), Code of Criminal Procedure, as added by this Act, prospective.

SECTION 7. Requires the commissioner of education and the State Board of Education, on the recommendation of SBEC, as soon as practicable after the effective date of this Act, to adopt rules as necessary to implement Section 21.0062, Education Code, as added by this Act.

SECTION 8. Effective date: September 1, 2019.