

By: Dukes, Zedler

H.B. No. 940

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain educator misconduct; imposing a penalty.

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

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

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

8 (1) engages in~~+~~

9 [~~1~~] sexual contact, sexual intercourse, or deviate  
10 sexual intercourse with a person who is enrolled in a public or  
11 private primary or secondary school at which the employee works;  
12 [~~or~~]

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

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

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

1                   (i) students enrolled in a public or  
2 private primary or secondary school are the primary participants in  
3 the activity; and

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

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

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

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

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

19           SECTION 2. Section 21.006, Education Code, is amended by  
20 adding Subsection (b-1) to read as follows:

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

27           SECTION 3. Section 21.006(b-1), Education Code, as added by

1 this Act, applies to an investigation of possible public school  
2 educator misconduct begun on or after the effective date of this  
3 Act, regardless of whether the alleged misconduct occurred before,  
4 on, or after the effective date of this Act.

5 SECTION 4. The change in law made by this Act applies only  
6 to an offense committed on or after the effective date of this Act.  
7 An offense committed before the effective date of this Act is  
8 governed by the law in effect when the offense was committed, and  
9 the former law is continued in effect for that purpose. For  
10 purposes of this section, an offense was committed before the  
11 effective date of this Act if any element of the offense occurred  
12 before that date.

13 SECTION 5. This Act takes effect September 1, 2011.