

SENATE AMENDMENTS

2nd Printing

By: Gonzales of Williamson, Madden

H.B. No. 1610

A BILL TO BE ENTITLED

AN ACT

1
2 relating to employment termination procedures applicable to a
3 teacher who is convicted of or receives deferred adjudication for a
4 felony.

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

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

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

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

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

17 (c) A school district or open-enrollment charter school
18 that receives notice under Subsection (b) of the revocation of a
19 certificate issued under this subchapter shall:

20 (1) immediately remove the person whose certificate
21 has been revoked from campus or from an administrative office, as
22 applicable, to prevent the person from having any contact with a
23 student; and

24 (2) if the person is employed under a probationary,

1 continuing, or term contract under this chapter:

2 (A) suspend the person without pay;

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

5 (C) [~~as soon as practicable,~~] terminate the
6 employment of the person as soon as practicable [~~in accordance with~~
7 ~~the person's contract and with this subchapter].~~

8 (c-1) If a school district or open-enrollment charter
9 school becomes aware that a person employed by the district or
10 school under a probationary, continuing, or term contract under
11 this chapter has been convicted of a felony offense or has received
12 deferred adjudication for a felony offense and violated a condition
13 imposed by the court before the expiration of the required period of
14 community supervision, and the person is not subject to Subsection
15 (c), the district or school may:

16 (1) suspend the person without pay;

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

19 (3) terminate the employment of the person as soon as
20 practicable.

21 (c-2) A person's probationary, continuing, or term contract
22 is void if the school district or open-enrollment charter school
23 takes action under Subsection (c)(2)(B) or (c-1)(2).

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

1 SECTION 2. This Act applies beginning with the 2011-2012
2 school year.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2011.

ADOPTED

MAY 2 2011

Atty. Gen. Law
Secretary of the Senate

By: Gonzales/Patrick

H.B. No. 1610

Substitute the following for H.B. No. 1610:

By: [Signature]

C.S. H.B. No. 1610

A BILL TO BE ENTITLED

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8 (c-2), and (e) to read as follows:

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10 apply [~~This section applies~~] only:

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12 Penal Code, or an offense on conviction of which a defendant is
13 required to register as a sex offender under Chapter 62, Code of
14 Criminal Procedure; and

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

17 (c) A school district or open-enrollment charter school
18 that receives notice under Subsection (b) of the revocation of a
19 certificate issued under this subchapter shall:

20 (1) immediately remove the person whose certificate
21 has been revoked from campus or from an administrative office, as
22 applicable, to prevent the person from having any contact with a
23 student; and

24 (2) if the person is employed under a probationary,

1 continuing, or term contract under this chapter:

2 (A) suspend the person without pay;

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

5 (C) [~~as soon as practicable,~~] terminate the
6 employment of the person as soon as practicable [~~in accordance with~~
7 the person's contract and with this subchapter].

8 (c-1) If a school district or open-enrollment charter
9 school becomes aware that a person employed by the district or
10 school under a probationary, continuing, or term contract under
11 this chapter has been convicted of or received deferred
12 adjudication for a felony offense, and the person is not subject to
13 Subsection (c), the district or school may:

14 (1) suspend the person without pay;

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

17 (3) terminate the employment of the person as soon as
18 practicable.

19 (c-2) A person's probationary, continuing, or term contract
20 is void if the school district or open-enrollment charter school
21 takes action under Subsection (c)(2)(B) or (c-1)(2).

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

26 SECTION 2. This Act applies beginning with the 2011-2012
27 school year.

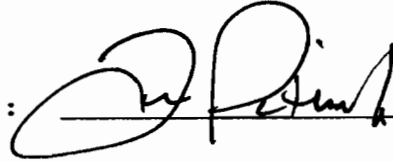
1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2011.

ADOPTED

MAY 20 2011

Atay Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. _____

BY:  _____

1 Amend C.S.H.B. No. 1610 (senate committee printing) by adding
2 the following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. 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 [~~+~~] 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:

25 (i) students enrolled in a public or
26 private primary or secondary school are the primary participants in
27 the activity; and

28 (ii) the employee provides education
29 services to those participants; or

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

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

7 (1) the actor was the spouse of the enrolled person at
8 the time of the offense; or

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

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

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

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

27 SECTION _____. The change in law made by this Act to Section
28 21.12, Penal Code, applies only to an offense committed on or after
29 the effective date of this Act. An offense committed before the
30 effective date of this Act is governed by the law in effect when the
31 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.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 23, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1610 by Gonzales, Larry (Relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

The bill would amend processes relating to the termination of employees convicted of certain criminal offenses. The bill would also require a superintendent to complete an investigation of an educator despite the educator's resignation if there is reasonable cause to believe the individual engaged in conduct described in Penal Code 21.12(a) with a student enrolled in a public primary or secondary school within the same school district in which the individual is employed.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JS_p, LXH, JGM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1610 by Gonzales, Larry (Relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

The bill would amend processes relating to the termination of employees convicted of certain criminal offenses. The provisions of the bill could potentially result in savings to some districts depending upon local circumstances.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, LXH, JGM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 10, 2011

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1610 by Gonzales, Larry (Relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

The bill would amend processes relating to the termination of employees convicted of certain criminal offenses. The provisions of the bill could potentially result in savings to some districts depending upon local circumstances.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, LXH, JGM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 8, 2011

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1610 by Gonzales, Larry (
Relating to employment termination procedures applicable to a teacher who is convicted of or
receives deferred adjudication for a felony.
) **, Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

The bill would amend processes relating to the termination of employees convicted of certain criminal offenses. The provisions of the bill could potentially result in savings to some districts depending upon local circumstances.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, LXH, JGM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 21, 2011

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1610 by Gonzales, Larry (Relating to employment termination procedures applicable to a teacher who is convicted of a felony.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

The bill would amend processes relating to the termination of employees convicted of certain criminal offenses. The provisions of the bill could potentially result in savings to some districts depending upon local circumstances.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, JSp, LXH, JGM