

House Bill 1610
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

SECTION 1. Section 21.058, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (c-1), (c-2), and (e) to read as follows:
(a) The procedures described by Subsections (b) and (c) apply [This section applies] only:
(1) to conviction of a felony offense under Title 5, Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and
(2) if the victim of the offense is under 18 years of age.
(c) A school district or open-enrollment charter school that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter shall:
(1) immediately remove the person whose certificate has been

SENATE VERSION (IE)

SECTION __. Section 21.006, Education Code, is amended by adding Subsection (b-1) to read as follows:
(b-1) A superintendent or director of a school district shall complete an investigation of an educator that is based on reasonable cause to believe the educator may have engaged in misconduct described by Subsection (b)(2)(A), despite the educator's resignation from district employment before completion of the investigation. [FA1]

SECTION __. Section 21.006(b-1), Education Code, as added by this Act, applies to an investigation of possible public school educator misconduct begun on or after the effective date of this Act, regardless of whether the alleged misconduct occurred before, on, or after the effective date of this Act. [FA1]

SECTION 1. Section 21.058, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (c-1), (c-2), and (e) to read as follows:
(a) The procedures described by Subsections (b) and (c) apply [This section applies] only:
(1) to conviction of a felony offense under Title 5, Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and
(2) if the victim of the offense is under 18 years of age.
(c) A school district or open-enrollment charter school that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter shall:
(1) immediately remove the person whose certificate has been

CONFERENCE

House Bill 1610
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

(2) if the person is employed under a probationary, continuing, or term contract under this chapter:

(A) suspend the person without pay;

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

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

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

(1) suspend the person without pay;

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

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

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

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

SENATE VERSION (IE)

revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

(2) if the person is employed under a probationary, continuing, or term contract under this chapter:

(A) suspend the person without pay;

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

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

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

(1) suspend the person without pay;

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

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

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

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

CONFERENCE

House Bill 1610
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

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

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

~~(1)~~ engages in:

~~[(+)]~~ sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

~~[or]~~

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

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

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

~~(i) students enrolled in a public or private primary or secondary school are the primary participants in the activity;~~

~~and~~

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

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

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

~~(1) the actor was the spouse of the enrolled person at the time~~

House Bill 1610
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

of the offense; or
(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school. [FA1]

No equivalent provision.

SECTION __. The change in law made by this Act to Section 21.12, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date. [FA1]

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

SECTION 2. Same as House version.

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

SECTION 3. Same as House version.