

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Moody, Dale, Minjarez

H.B. No. 1783

A BILL TO BE ENTITLED

AN ACT

relating to the right of a school employee to report a crime and persons subject to the prohibition on coercing another into suppressing or failing to report information to a law enforcement agency; creating a criminal offense.

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

SECTION 1. Section 12.104(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under

Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, E, F, G, and J, Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct; ~~and~~

(N) intensive programs of instruction under Section 28.0213; and

(O) the right of a school employee to report a crime, as provided by Section 37.148.

SECTION 2. Subchapter E-1, Chapter 37, Education Code, is amended by adding Section 37.148 to read as follows:

Sec. 37.148. RIGHT TO REPORT CRIME. (a) An employee of a school district or open-enrollment charter school may report a crime witnessed at the school to any peace officer with authority to investigate the crime.

(b) A school district or open-enrollment charter school may

1 not adopt a policy requiring a school employee to:

2 (1) refrain from reporting a crime witnessed at the  
3 school; or

4 (2) report a crime witnessed at the school only to  
5 certain persons or peace officers.

6 SECTION 3. Section 39.06(a), Penal Code, is amended to read  
7 as follows:

8 (a) A public servant commits an offense if, in reliance on  
9 information to which the public servant ~~[he]~~ has access by virtue of  
10 the person's ~~[his]~~ office or employment and that has not been made  
11 public, the person ~~[he]~~:

12 (1) acquires or aids another to acquire a pecuniary  
13 interest in any property, transaction, or enterprise that may be  
14 affected by the information;

15 (2) speculates or aids another to speculate on the  
16 basis of the information; or

17 (3) as a public servant, including as a ~~[principal of~~  
18 ~~a]~~ school administrator, coerces another into suppressing or  
19 failing to report that information to a law enforcement agency.

20 SECTION 4. The change in law made by this Act to Section  
21 39.06, Penal Code, applies to an offense committed on or after the  
22 effective date of this Act. An offense committed before the  
23 effective date of this Act is governed by the law in effect on the  
24 date the offense was committed, and the former law is continued in  
25 effect for that purpose. For purposes of this section, an offense  
26 was committed before the effective date of this Act if any element  
27 of the offense occurred before that date.

H.B. No. 1783

1       SECTION 5.   This Act takes effect September 1, 2015.

ADOPTED

JULY 27 2015

FLOOR AMENDMENT NO. 1

Secretary of the Senate

Amend H.B. No. 1783 by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 21.006(b), (b-1), (c), and (d), Education Code, are amended to read as follows:

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, open-enrollment charter school, regional education service center, or shared services arrangement shall notify the State Board for Educator Certification if ~~[the superintendent or director has reasonable cause to believe that]~~:

(1) an educator employed by or seeking employment by the district, school, service center, or shared services arrangement has a criminal record and the district, school, service center, or shared services arrangement obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established under Section 411.0845, Government Code;

(2) an educator's employment at the district, school, service center, or shared services arrangement was terminated based on evidence ~~[a determination]~~ that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(A-1) was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq. ~~[, and its subsequent~~

amendments];

(C) illegally transferred, appropriated, or expended funds or other property of the district, school, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event;

(3) the educator resigned and there is ~~[reasonable]~~ evidence ~~[supports a recommendation by the superintendent or director to terminate the educator based on a determination]~~ that the educator engaged in misconduct described by Subdivision (2); or

(4) the educator engaged in conduct that violated the assessment instrument security procedures established under Section 39.0301.

(b-1) A superintendent or director of a school district or open-enrollment charter school shall complete an investigation of an educator that is based on evidence that ~~[reasonable cause to believe]~~ the educator may have engaged in misconduct described by Subsection (b)(2)(A) or (A-1), despite the educator's resignation from district or school employment before completion of the investigation.

(c) The superintendent or director must notify the State Board for Educator Certification by filing a report with the board not later than the seventh day after the date the superintendent or director knew ~~[first learns]~~ about an employee's criminal record under Subsection (b)(1) or a termination of employment or resignation following an alleged incident of misconduct described

by Subsection (b). The report must be:

- (1) in writing; and
- (2) in a form prescribed by the board.

(d) The superintendent or director shall notify the board of trustees or governing body of the school district, open-enrollment charter school, regional education service center, or shared services arrangement and the educator of the filing of the report required by Subsection (c).

SECTION \_\_\_\_\_. Section 22.087, Education Code, is amended to read as follows:

Sec. 22.087. NOTIFICATION TO STATE BOARD FOR EDUCATOR CERTIFICATION. The superintendent of a school district or the director of an open-enrollment charter school, private school, regional education service center, or shared services arrangement shall promptly notify the State Board for Educator Certification in writing if:

(1) the person obtains or has knowledge of information showing that an applicant for or holder of a certificate issued under Subchapter B, Chapter 21, has a reported criminal history; and

(2) the person obtained the information by a means other than the criminal history clearinghouse established under Section 411.0845, Government Code.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 28, 2015**

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

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1783** by Moody (Relating to the right of a school employee to report a crime and persons subject to the prohibition on coercing another into suppressing or failing to report information to a law enforcement agency; creating a criminal offense. ), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would allow any employee of a school district or an open-enrollment charter school who witnessed a crime at the school to report the crime to any peace officer with authority to investigate the crime. School districts and charter schools would be prohibited from adopting policies that required employees to refrain from reporting a crime or requiring that a crime witnessed at school be reported only to certain persons or peace officers.

The bill would amend Section 39.06(a), Penal Code, dealing with misuse of official information. Under current law, a public servant, including a principal of a school, commits an offense if he or she coerces another into suppressing or failing to report information to a law enforcement agency. The bill would clarify that the provision extends to any school administrator.

The bill would require the superintendent or director of a school district, open-enrollment charter school, regional education service center (RESC), or shared services arrangement (SSA) to report to the State Board for Educator Certification (SBEC) criminal records of employees or applicants obtained from sources other than the criminal history clearinghouse; and report an employee who was terminated or resigned based on evidence of certain unlawful acts.

The Texas Education Agency anticipates any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

**Local Government Impact**

The bill would modify a Class C misdemeanor. A Class C misdemeanor is punishable by a fine of not more than \$500. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact. In addition to the fine, punishment can include up to 180 days of deferred disposition.

The bill would clarify reporting requirements, which could lead to additional costs related to



increased reporting or investigations. These costs would vary depending on whether evidence was available related to educator misconduct and the frequency of incidents involving educator misconduct.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 701 Central Education Agency

**LBB Staff:** UP, JBi, KJo, KVe, EK

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 22, 2015**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1783** by Moody (Relating to the right of a school employee to report a crime and persons subject to the prohibition on coercing another into suppressing or failing to report information to a law enforcement agency; creating a criminal offense.), **As Engrossed**

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No fiscal implication to local schools districts are anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 701 Central Education Agency

**LBB Staff:** UP, KJo, JBi, KVe, EK

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 27, 2015**

**TO:** Honorable Jimmie Don Aycock, Chair, House Committee on Public Education

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1783** by Moody (Relating to the right of a school employee to report a crime and persons subject to the prohibition on coercing another into suppressing or failing to report information to a law enforcement agency; creating a criminal offense.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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No fiscal implication to local schools districts are anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 701 Central Education Agency

**LBB Staff:** UP, JBi, KVe, EK