

SENATE AMENDMENTS

2nd Printing

By: Murr, Cook, Ellzey

H.B. No. 246

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the criminal offense of improper relationship between educator and student.

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

SECTION 1. Section 21.01(2), Penal Code, is amended to read as follows:

(2) "Sexual contact" means, except as provided by Section 21.11 or 21.12, any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

SECTION 2. Section 21.12, Penal Code, is amended by adding Subsections (d-1) and (e) to read as follows:

(d-1) A public or private primary or secondary school may not release to the general public the name of an employee of the school who is accused of committing an offense under this section until the employee is indicted for the offense. The school may release the name of the accused employee, without regard to whether there has been an incident, as necessary for the school to:

(1) report the accusation to the Texas Education Agency or as otherwise required by law; or

(2) conduct its own investigation of the accusation.

(e) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

1 (1) any touching by an employee of a public or private
2 primary or secondary school of the anus, breast, or any part of the
3 genitals of:

4 (A) an enrolled person described by Subsection
5 (a)(1) or (a)(2)(A); or

6 (B) a student participant described by
7 Subsection (a)(2)(B); or

8 (2) any touching of any part of the body of the
9 enrolled person or student participant with the anus, breast, or
10 any part of the genitals of the employee.

11 SECTION 3. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense was
18 committed before that date.

19 SECTION 4. This Act takes effect September 1, 2021.

ADOPTED

MAY 25 2021

By: Paul Bellercont

Lately H. How No. 246
Secretary of the Senate

Substitute the following for ___B. No. _____:

By: Joan Huffman

C.S. ___B. No. _____

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SECTION 2. Section 21.12, Penal Code, is amended by adding Subsections (d-1) and (e) to read as follows:

(d-1) Except as otherwise provided by this subsection, a public or private primary or secondary school, or a person or entity that operates a public or private primary or secondary school, may not release externally to the general public the name of an employee of the school who is accused of committing an offense under this section until the employee is indicted for the offense. The school, or the person or entity that operates the school, may release the name of the accused employee regardless of whether the employee has been indicted for the offense as necessary for the school to:

(1) report the accusation:

(A) to the Texas Education Agency, another state agency, or local law enforcement or as otherwise required by law; or

1 (B) to the school's members or community in
2 accordance with the school's policies or procedures or with the
3 religious law observed by the school; or

4 (2) conduct an investigation of the accusation.

5 (e) In this section, "sexual contact" means the following
6 acts, if committed with the intent to arouse or gratify the sexual
7 desire of any person:

8 (1) any touching by an employee of a public or private
9 primary or secondary school of the anus, breast, or any part of the
10 genitals of:

11 (A) an enrolled person described by Subsection
12 (a)(1) or (a)(2)(A); or

13 (B) a student participant described by
14 Subsection (a)(2)(B); or

15 (2) any touching of any part of the body of the
16 enrolled person or student participant with the anus, breast, or
17 any part of the genitals of the employee.

18 SECTION 3. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this Act.
20 An offense committed before the effective date of this Act is
21 governed by the law in effect on the date the offense was committed,
22 and the former law is continued in effect for that purpose. For
23 purposes of this section, an offense was committed before the
24 effective date of this Act if any element of the offense was
25 committed before that date.

26 SECTION 4. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 27, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB246 by Murr (Relating to the prosecution of the criminal offense of improper relationship between educator and student.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to define sexual contact for the prosecution of the offense of improper relationship between an educator and student. This offense is punished as a second degree felony.

The Office of Court Administration indicates the modifications outlined in the bill's provisions would not result in a significant fiscal impact. This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant fiscal impact on state correctional populations or the demand for state correctional resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 696 Department of Criminal Justice

LBB Staff: JMc, SD, SLE, LM, DGI, DKN, BH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 22, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB246** by Murr (relating to the prosecution of the criminal offense of improper relationship between educator and student.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 19, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB246** by Murr (Relating to the prosecution of the criminal offense of improper relationship between educator and student.), **As Engrossed**

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 19, 2021

TO: Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB246 by Murr (Relating to the prosecution of the criminal offense of improper relationship between educator and student.), **As Introduced**

No significant fiscal implication to the State is anticipated.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT
87TH LEGISLATIVE REGULAR SESSION

May 22, 2021

TO: Honorable Joan Huffman, Chair, Senate Committee on Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB246 by Murr (relating to the prosecution of the criminal offense of improper relationship between educator and student.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to define sexual contact for the prosecution of the offense of improper relationship between an educator and student. This offense is punished as a second degree felony.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years, and in addition to confinement, an optional fine not to exceed \$10,000.

From fiscal year 2018 to 2020, 195 people were arrested, 71 people were placed under felony community supervision, and 17 people were admitted into state correctional institutions for the offense of improper relationship between an educator and student under current statute. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or the demand for state correctional resources.

Source

Agencies:

LBB Staff: JMc, SLE, LM, DGI, DKN

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

87TH LEGISLATIVE REGULAR SESSION

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Jerry McGinty, Director, Legislative Budget Board

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LEGISLATIVE BUDGET BOARD

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87TH LEGISLATIVE REGULAR SESSION

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