

- SUBJECT:** Expanded criteria for improper relationship between educator and student
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Gallego, Aliseda, Burkett, Carter, Christian, Zedler
0 nays
3 absent — Hartnett, Y. Davis, Rodriguez
- WITNESSES:** For — Robert Schneider, Austin ISD Board of Trustees; (*Registered, but did not testify*: Katrina Daniels, for Bexar County Criminal District Attorney Susan D. Reed; Diana Martinez, Tex Protects and the Texas Association for the Protection of Children; Nathan Moss, Harris County District Attorney's Office)

Against — None

On — Dwight Harris, Texas AFT; Laura Otey, Austin ISD; Doug Phillips, TEA
- BACKGROUND:** Under Penal Code, sec. 21.12, an employee of a public or private primary or secondary school would commit a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the employee engaged in sexual contact, sexual intercourse, or deviate sexual intercourse with a student enrolled in the school at which the employee works.
- DIGEST:** HB 940 would amend Penal Code, sec. 21.12 to prohibit an employee of a public or private primary or secondary employee from engaging in sexual contact, sexual intercourse, or deviate sexual intercourse with a student enrolled in a school in the same school district in which the employee worked or a student participating in an educational activity for which the employee provided educational services to those participants.

The bill would take effect September 1, 2011, and would apply to offenses committed on or after that date.

SUPPORTERS
SAY:

HB 940 would send the message to students and parents that the state was committed to a safe educational environment for students by closing a loophole in the state's prohibition against school employees conducting sexual relationships with students. The teacher's authority in a tutoring or district-wide activity allows them to take advantage of a student in the same manner as if the teacher and student were on the same campus. The law should address the relationship in the same manner.

Certain school districts have found that teachers will encourage a student to transfer schools for this purpose. The bill would close the loophole that permits a student to transfer to another school within the district for the purpose of beginning or continuing a sexual relationship with a teacher or school employee.

Currently, a school district can terminate a school employee conducting a sexual relationship with a student at another school in the school district or who attends a district-wide activity, but the employee could not be prosecuted.

OPPONENTS
SAY:

HB 940 should include tighter language to address the true issue of an employee with authority over a student taking advantage of that student. The state should ensure that all inappropriate sexual relationships are addressed, but this bill would more broadly encompass relationships in which the employee did not have direct authority over the student. The bill should not prohibit a relationship between a 20-year-old janitor at one school and a 17-year-old student at another within the same school district. The bill should make allowances for young teachers who began the relationship with the student prior to the teacher being employed by the school district.

NOTES:

Rep. Dukes intends to offer an amendment that would apply the provisions of HB 940 only to a teacher, librarian, educational aide, administrator, or counselor. The amendment would specify that the employee had to have known the student attended another school in the school district or that the student participated in a district-wide activity. The amendment would provide that it would be an affirmative defense to prosecution that the employee was no more than three years older than the student at the time the offense occurred and the employee and the student were in a relationship prior to the employee being employed at the primary or secondary school.

