

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1497
By: Taylor, Van
Education
5/1/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that school districts lack the authority to immediately terminate employees convicted of a felony offense or a misdemeanor of moral turpitude. While districts may immediately terminate an employee convicted of a felony-grade crime against a person (e.g., murder, kidnapping, assault), they lack the authority to terminate employees convicted of other types of felonies, such as fraud, theft, or even arson. Further, school districts cannot immediately terminate employees convicted of certain misdemeanors such as prostitution or public lewdness. Given school employees' immediate proximity to children, those convicted of any felony or misdemeanor of moral turpitude should not be allowed to maintain an employment relationship with a school district upon final conviction. Further, district taxpayers should not be obligated to compensate felons upon final conviction. The intent of C.S.S.B. 1497 is to clarify that school districts shall immediately terminate an employee convicted of a felony or certain misdemeanor offenses. This bill provides districts with the clear authority to terminate employees convicted of felony-grade crimes or certain misdemeanors.

Interested parties further contend that school district staff cannot terminate or suspend a contract for an employee convicted of certain offenses. In these cases, the school board must meet and vote to take action on the contract. This process is long and cumbersome for districts, as the convicted employee remains on the payroll. C.S.S.B. 1497 clarifies that a district's board, or the board's designee, is required to take action to suspend or terminate an employee convicted of certain offenses.

C.S.S.B. 1497 amends current law relating to educator misconduct and employment sanctions and a requirement that a school district, open-enrollment charter school, or shared services arrangement terminate or refuse to hire an employee or applicant convicted of certain offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 21.058(a), (c), (c-2), and (e), Education Code, as follows:

(a) Provides that the procedures described by Subsections (b) (requiring the State Board for Educator Certification to revoke the certification held by a person convicted of certain offenses) and (c) apply only to conviction of:

- (1) a felony offense;
- (2) Creates this subdivision from existing text;
- (3) an offense under the laws of another state or federal law that is equivalent to an offense under Subdivision (1) or (2); or
- (4) a misdemeanor offense under Chapter 21 (Sexual Offenses) or 43 (Public Indecency), Penal Code.

Deletes existing text providing that the procedures described by Subsections (b) and (c) apply only under Title 5 (Offenses Against the Person), Penal Code, and if the victim of the offense is under 18 years of age. Makes nonsubstantive changes.

(c) Requires a school district or open-enrollment charter school that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter to:

(1) Makes no change to this subdivision; and

(2) if the person is employed under a probationary, continuing, or term contract under this chapter, on the action of the board of trustees or governing body or a designee of the board or governing body:

(A)-(C) Makes no change to these paragraphs.

(c-2) Provides that a person's probationary, continuing, or term contract is void if, on the action of the board of trustees or governing body or a designee of the board or governing body, the school district or open-enrollment charter school takes action under Subsection (c), rather than under Subsection (c)(2)(B) (requiring a school district or open-enrollment charter school that receives notice of the revocation of a certificate to provide the person whose certificate has been revoked with written notice that the person's contract is void) or (c-1)(2).

(e) Provides that action taken by a school district or open-enrollment charter school under Subsection (c), rather than 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.

SECTION 2. Amends Sections 22.085(a) and (d), Education Code, as follows:

(a) Requires a school district, open-enrollment charter school, or shared services arrangement to discharge or refuse to hire an employee or applicant for employment if the district, school, or shared services arrangement obtains information through a criminal history record information review that the employee or applicant has been convicted of:

(1) a felony offense, rather than a felony offense under Title 5, Penal Code;

(2) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure;

(3) an offense under the laws of another state or federal law that is equivalent to an offense under Subdivision (1) or (2), rather than under Paragraph (A) or (B); or

(4) a misdemeanor offense under Chapter 21 or 43, Penal Code.

Redesignates existing Paragraphs (A)-(C) as Subdivisions (1)-(3). Deletes existing Subdivision (2) requiring a school district, open-enrollment charter school, or shared services arrangement to discharge or refuse to hire an employee or applicant for employment if the district, school, or shared services arrangement obtains information through a criminal history record information review that, at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(d) Deletes existing text authorizing a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement to discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee

did not disclose to the State Board for Educator Certification or the district, school, service center, or shared services arrangement. Makes no further change to this subsection.

SECTION 3. Amends Article 42.018(a), Code of Criminal Procedure, as follows:

(a) Provides that this article applies only to conviction or deferred adjudication granted on the basis of:

(1) a felony offense;

(2) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62; or

(3) a misdemeanor offense under Chapter 21 or 43, Penal Code.

Deletes existing text providing that this article applies only to conviction or deferred adjudication granted on the basis of an offense under Title 5, Penal Code, and if the victim of the offense is under 18 years of age. Makes nonsubstantive changes.

SECTION 4. Repealer: Section 21.058(c-1) (requiring a school district or open-enrollment charter school that receives notice of the revocation of a certificate to immediately remove the person whose certificate has been revoked from campus or from an administrative office), Education Code.

Repealer: Section 22.085(b) (prohibiting Subsection (a) from applying if the employee or applicant for employment committed an offense under Title 5, Penal Code), Education Code.

SECTION 5. Effective date: upon passage or September 1, 2015.