

## **BILL ANALYSIS**

Senate Research Center  
86R3221 TSS-F

S.B. 1230  
By: Bettencourt  
Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The 85th Legislature passed significant reforms to combat educator misconduct. Interested parties contend that there are still disparities in reporting for private schools and loopholes that allow an educator who has an inappropriate relationship with a student in a public school district to then move and obtain employment in a private school without the new school ever receiving notice of the inappropriate relationship. Interested parties observe that there are new laws and protections to combat educator misconduct encompass the public school system and that children in private school settings are less protected than their public school counterparts.

The purpose of S.B. 1230 is to reduce the risks faced by private schools and private school students by closing loopholes and providing penalties for conduct relating to an inappropriate relationship between an educator and a student.

S.B. 1230 would provide similar changes to law enacted by S.B. 7 (Bettencourt), 85th Legislature, requiring reporting of misconduct in a private school and ensuring access to such reports by private schools. S.B. 1230 amends current law relating to improper relationships between educators and students and reporting of educator misconduct, creates a criminal offense and expands the applicability of an existing offense, and authorizes an administrative penalty.

As proposed, S.B. 1230 amends current law relating to the reporting of private school educator misconduct.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education and the State Board of Education in SECTION 6 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 42.018, Code of Criminal Procedure, by adding Subsections (c) and (d), as follows:

(c) Requires the clerk of the court in which the conviction or deferred adjudication is entered, not later than the fifth day after the date a person who is employed by a private school is convicted or granted deferred adjudication on the basis of an offense, to provide to the chief administrative officer of the private school at which the person is employed written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based.

(d) Defines "private school."

SECTION 2. Amends Subchapter A, Chapter 21, Education Code, by adding Sections 21.0062 and 21.0063, as follows:

Sec. 21.0062. REQUIREMENT TO REPORT MISCONDUCT: PRIVATE SCHOOLS.  
(a) Defines "abuse" and "educator."

(b) Requires the chief administrative officer of a private school, in addition to the reporting requirement under Section 261.101 (Persons Required to Report; Time to Report), to notify the State Board for Educator Certification (SBEC) if an educator:

(1) has a criminal record and the private school obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established under Section 411.0845 (Criminal History Clearinghouse), Government Code;

(2) was terminated and there is evidence that the educator abused or otherwise committed an unlawful act with a student or minor or was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or a minor; or

(3) resigned and there is evidence that the educator had engaged in misconduct described by Subdivision (2).

(c) Requires the chief administrative officer of the private school to complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct described by Subsection (b), despite the educator's resignation from employment before completion of the investigation.

(d) Requires the chief administrative officer of a private school to notify SBEC by filing a report with SBEC not later than the seventh business day after the date the chief administrative officer knew or had reason to believe that an educator has a criminal record under Subsection (b)(1) or was terminated or resigned following an alleged incident of misconduct described by Subsection (b)(2).

(e) Requires a report filed under Subsection (d) to be in writing and in a form described by SBEC.

(f) Authorizes any person who knows or has reason to believe that an educator engaged in the misconduct described by Subsection (b)(2) to file a report with SBEC under this section.

(g) Establishes that a chief administrative officer of a private school or any other person who in good faith files a report with SBEC under this section or communicates with a chief administrative officer or other administrator of a private school concerning the criminal record of or an alleged incident of misconduct by an educator is immune from civil or criminal liability that might otherwise be incurred or imposed.

(h) Requires SBEC to propose rules as necessary to implement this section.

Sec. 21.0063. ACCESS TO REPORTS OF ALLEGED MISCONDUCT. (a) Defines "educator."

(b) Requires SBEC to provide private schools and public schools equivalent access to reports made under this subchapter concerning the criminal record or alleged misconduct of an educator.

SECTION 3. Amends Section 21.009(a), Education Code, to provide that an applicant for a position described by Section 21.003(a) (relating to prohibiting a person from being employed in a certain position by a school district without the appropriate certification or permit) or (b) (relating to prohibiting a person from being employed by a school district for a certain position if the person is not licensed by the state agency that licenses that profession) with a private school, among other listed entities, is required to submit a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

SECTION 4. Amends Section 21.0581(a), Education Code, as follows:

(a) Authorizes SBEC to suspend or revoke a certificate held by a person under this subchapter, impose other sanctions against the person, or refuse to issue a certificate to the person under this subchapter if:

(1) the person assists another person in obtaining employment at a school district, private school, or open-enrollment charter school, other than by the routine transmission of administrative and personnel files; and

(2) the person knew that the other person has previously engaged in sexual misconduct with a minor or student in violation of the law.

SECTION 5. Makes application of Article 42.018(c), Code of Criminal Procedure, as added by this Act, prospective.

SECTION 6. Requires the commissioner of education and the State Board of Education, on the recommendation of SBEC, as soon as practicable after the effective date of this Act, to adopt rules as necessary to implement Sections 21.0062 and 21.0063, Education Code, as added by this Act.

SECTION 7. Effective date: September 1, 2019.