

## **BILL ANALYSIS**

Senate Research Center

S.B. 653  
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Education  
2/21/2017  
As Filed

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

During the 2015-16 Interim, an investigative report by Dallas news station WFAA uncovered a practice known as "passing the trash," where educators caught engaging in inappropriate relationships with students are allowed or encouraged to obtain teaching jobs elsewhere. The WFAA report highlighted specific examples where school personnel were terminated from one district due to inappropriate relationships with students but allowed to teach at other districts. In some cases, school administrators worked to both conceal the offending educators' actions and their own inactions relating to their legal obligations. Interested parties further observe that the prevalence of electronic communications have enabled some inappropriate relationships. While student-teacher relationships, including sexual conduct, are prohibited, and must be reported to law enforcement and state regulatory authorities, interested parties note that specific gaps in statute preclude effective performance. These gaps allow the practice of "passing the trash" to continue and hinder the State Board for Educator Certification's (SBEC) ability to effectively investigate reports of wrongdoing and enforce the law.

S.B. 653 proposes several reforms to eliminate the practice of "passing the trash." The bill strengthens specific reporting requirements applicable to school administrators and penalizes those that fail to follow those requirements. The bill also provides school districts with greater flexibility to terminate felons, including registered sex offenders. S.B. 653 strengthens SBEC's enforcement powers by providing enhanced investigative authority and broadening the agency's power to suspend or revoke teaching certificates. The bill further requires that school districts adopt and enforce a policy regarding electronic communications between students and educators. S.B. 653 strengthens state criminal laws to broadly prohibit educators from engaging in sexual contact with any student in Texas. Lastly, S.B. 653 revokes pensions for teachers convicted of harming students.

As proposed, S.B. 653 amends current law relating to improper relationships between educators or certain other school personnel and students and creates an offense and expands the applicability of existing offenses.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the commissioner of education (commissioner) is modified in SECTION 2.02 (Section 12.056, Education Code) and SECTION 2.03 (Section 12.104, Education Code) of this bill.

Rulemaking authority previous granted to the State Board for Educator Certification is modified in SECTION 2.07 (Section 21.006, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner in SECTION 2.18 (Section 22.088, Education Code) of this bill.

Rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 3.03 (Section 814.013, Government Code) and SECTION 4.09 of this bill.

Rulemaking authority is expressly granted to board of trustees of the Teacher Retirement System of Texas in SECTION 3.04 (Section 824.009, Government Code) and SECTION 4.09 of this bill.

## **SECTION BY SECTION ANALYSIS**

### ARTICLE 1. LEGISLATIVE FINDINGS

SECTION 1.01. Sets forth certain legislative findings.

### ARTICLE 2. REPORTING, ENFORCEMENT, AND CRIMINAL PENALTIES

SECTION 2.01. Amends Section 7.028(a), Education Code, as follows:

(a) Authorizes the Texas Education Agency (TEA) to monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted certain charters, only as necessary to ensure:

- (1) makes no change to this subdivision;
- (2) makes a nonsubstantive change to this subdivision;
- (3) makes a nonsubstantive change to this subdivision;
- (4) compliance with reporting requirements under Section 21.006.

SECTION 2.02. Amends Section 12.056(b), Education Code, as follows:

(b) Provides that a campus or program for which a charter is granted under this subchapter (Campus or Campus Program Charter) is subject to:

- (1) makes no changes to this subdivision;
- (2) a prohibition, restriction, or requirement, as applicable, imposed by this title (Public Education) or a rule adopted under this title, relating to:
  - (A) makes no changes to this paragraph;
  - (B) a requirement to report misconduct under Section 21.006;
  - (C) criminal history records under Subchapter C (Criminal History Records), Chapter 22 (School District Employees and Volunteers), including the registry created under Section 22.088;
  - (D) to (J) redesignates existing Paragraphs (C), (D), (E), (F), (G), (H), and (I) as Paragraphs (D), (E), (F), (G), (H), (I), and (J) and makes no further changes.

SECTION 2.03. Amends Section 12.104(b), Education Code, as follows:

(b) Provides that an open-enrollment charter school is subject to:

- (1) makes no changes to this subdivision;
- (2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:
  - (A) to (L) Makes no changes to these paragraphs;

(M) the requirement under Section 21.006 to report misconduct by an educator or a person in a certified role, rather than the requirement under Section 21.006 to report an educator's misconduct;

(N) to (O) makes no changes to these paragraphs.

SECTION 2.04. Amends Section 12.1059, Education Code, as follows:

Sec. 12.1059. AGENCY APPROVAL REQUIRED FOR CERTAIN EMPLOYEES. Prohibits a person from being employed by or serving as a teacher, librarian, educational aide, administrator, or school counselor or in any other position with direct, unsupervised contact with students for an open-enrollment charter school unless the person has been approved by TEA following a review of the person's national criminal history record information as provided by Section 22.0832 (National Criminal History Record Information Review of Certain Open-Enrollment Charter School Employees) and the registry created under Section 22.088.

SECTION 2.05. Amends Chapter 12A, Education Code, by adding Section 12A.0041, as follows:

Sec. 12A.0041. ADDITIONAL REQUIREMENTS. Provides that a district of innovation that is exempt from the certification requirements of Subchapter B (Certification of Educators), Chapter 21 (Educators), is subject, to the extent of the exemption, to Sections 12.1059, 21.006, 22.085, and 22.088 as if the district of innovation were an open-enrollment charter school.

SECTION 2.06. Amends Section 12A.008, Education Code, by adding Subsection (e), to require the commissioner of education (commissioner) to terminate a school district's designation as a district of innovation if the district hires or fails to discharge a person in violation of Section 22.088(b).

SECTION 2.07. Amends Section 21.006, Education Code, as follows:

Sec. 21.006. REQUIREMENT TO REPORT MISCONDUCT. (a) Defines "person in a certified role" and makes a nonsubstantive change.

(b) Requires the superintendent or director of, or a principal in, a school district, open-enrollment charter school, regional education service center, or shared services arrangement, to notify the State Board for Educator Certification (SBEC) if:

(1) makes no changes to this subdivision;

(2) an educator's employment at the district, school, service center, or shared services arrangement was terminated, including by resignation of the educator, and at the time of the termination or resignation the superintendent, director, or principal knew or had probable cause to believe that educator committed certain acts, rather than an educator's employment at the district, school, service center, or shared services arrangement was terminated based on evidence that the educator committed certain acts;

(3) to (4) makes no changes to these subdivisions.

(b-1) Requires the superintendent, director, or principal of an open-enrollment charter school, in addition to the reporting requirement under Section 261.101 (Persons Required to Report; Time to Report), Family Code, to notify the commissioner if the school obtains information that a person in a certified role at the school has a criminal record that includes allegations that the person engaged in certain misconduct or the employment or

service of a person in a certified role at the school is terminated, including by resignation of the person, and there is evidence that the person engaged in certain misconduct.

(b-2) Creates this subsection from existing text. Requires a superintendent or director of a school district or open-enrollment charter school to complete an investigation of an educator or a person in a certified role that is based on evidence that the educator or person may have engaged in certain misconduct, despite the educator's or person's resignation from district or school employment before completion of the investigation.

(c) Requires the superintendent, director, or principal to notify SBEC or the commissioner, as applicable, by filing a report required under Subsection (b) or (b-1), rather than by filing a report with SBEC, not later than the seventh days after the date the superintendent, director, or principal knew about an educator's or a person in a certified role's criminal record under Subsection (b)(1) or (b-1)(1) or a termination of employment or resignation following an alleged incident of misconduct described by Subsection (b) or (b-1).

(c-1) Requires SBEC and the commissioner to establish and maintain a secure online portal that allows superintendents, directors, and principals to electronically file a required report.

(c-2) Provides that a requirement to report, as applied to a principal in a school district, is limited to reportable incidents or events occurring at, or directly related to, the school at which the principals serves.

(c-3) Provides that a requirement to report is satisfied by the timely filing of a single report by, as relevant under the circumstances, a superintendent, director, or principal.

(d) Requires the superintendent, director, or principal to 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 or the person in a certified role of the filing of a report required under this section, rather than the report required by Subsection (c).

(e) Establishes the immunity from civil or criminal liability of a superintendent, director, or principal who files a report with SBEC or the commissioner.

(f) Makes conforming changes.

(g) Makes no change to this subsection.

(h) Provides that a report under this section is confidential and not subject to disclosure under the public access provisions of Chapter 552 (Public Information), Government Code. Requires the name of a student or minor who is the victim of abuse or unlawful conduct by an educator or a person in a certified role to be included in a filed report.

SECTION 2.08. Amends Subchapter A, Chapter 21, Education Code, by adding Section 21.0061, as follows:

Sec. 21.0061. COMPLIANCE REVIEW. Authorizes the commissioner to authorize TEA to conduct a review of school districts and open-enrollment charter schools to verify compliance with Section 21.006.

SECTION 2.09. Amends Section 21.044(g), Education Code, to include information regarding appropriate educator-student relationships, boundaries, and communications in the list of certain information each educator preparation program is required to provide.

SECTION 2.10. Amends Sections 21.054(d) and (e), Education Code, as follows:

(d) Requires continuing education requirements for a classroom teacher to provide that not more than 25 percent of the training required every five years to include:

(1) to (2) makes no changes to these subdivisions;

(3) to (4) makes nonsubstantive changes to these subdivisions; and

(5) appropriate educator-student relationships, boundaries, and communications.

(e) Requires continuing education requirements for a principal to provide that not more than 25 percent of the training required every five years include:

(1) to (2) makes no changes to these subdivisions;

(3) to (4) makes nonsubstantive changes to these subdivisions;

(5) recognizing, preventing, and reporting inappropriate educator-student relationships.

SECTION 2.11. Amends Sections 21.058(a), (b), (c), (c-1), and (c-2), Education Code, as follows:

(a) Provides that the procedures described in Subsections (b) and (c) apply only to a person who is registered as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, or convicted of a felony offense under Title 5 (Offenses Against the Person), Penal Code, committed against a victim younger than 18 years of age, rather than apply only to a conviction of a felony offense under Title 5, Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, and the victim of the offense is under 18 years of age.

(b) Requires SBEC, to take certain actions, not later than the fifth day after the date SBEC receives notice of the conviction or adjudication, rather than notice of the conviction, of a person who holds a certificate under this subchapter.

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

(1) makes no changes to this subdivision;

(2) take certain actions if the person is employed under a probationary, continuing, or term contract, with the approval of the board of trustees or governing body or a designee of the board of trustees or governing body, rather than take certain actions if the person is employed under a probationary, continuing, or term contract.

(c-1) Authorizes a school district or open-enrollment charter school that becomes aware that a person employed by the district under a probationary, continuing, or term contract under this chapter has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to Subsection (c), to, with the approval of the board of trustees or governing body or a designee of the board of trustees or governing body, take certain actions.

(c-2) Provides that a person's probationary, continuing, or term contract is void if, with the approval of the board of trustees or governing body or a designee, the school district or open-enrollment charter school takes action under Subsection (c)(2)(B) or (c-1)(2).

SECTION 2.12. Amends Subchapter B, Chapter 21, Education Code, by adding Section 21.0585, as follows:

Sec. 21.0585. TEMPORARY SUSPENSION. (a) Requires the certificate of an educator to be temporarily suspended on a determination by a majority of SBEC or of a three-member committee of SBEC members designated by SBEC that, from the evidence or information presented, continued work as an educator by the certificate holder would constitute a continuing or imminent threat to the safety and welfare of students, educators, or school personnel.

(b) Authorizes an educator's certificate to be temporarily suspended under Subsection (a) without notice or hearing if SBEC immediately provides notice of the suspension to the educator and proceedings for a preliminary hearing before the State Office of Administrative Hearings (SOAH) are initiated simultaneously with the suspension under this chapter and Chapter 2001 (Administrative Procedure), Government Code.

(c) Requires a preliminary hearing to be set for a date not later than the 17th day after the date of the temporary suspension. Requires the preliminary hearing to be conducted as a de novo hearing and to determine whether probable cause exists that continued work as an educator by the certificate holder would constitute a continuing or imminent threat to the safety and welfare of students, educators, or school personnel.

(d) Requires SBEC, if SOAH does not hold the preliminary hearing within the time required under Subsection (c) or if the preliminary hearing results in a finding that probable cause for the suspension does not exist, to reinstate the educator's certificate and order the school district to reinstate the educator, pay the educator any back pay and employment benefits lost due to the temporary suspension from the time of the suspension to reinstatement, and remove any record of the educator's suspension from the school district's records.

(e) Requires SOAH, if a preliminary hearing results in a finding that probable cause for the suspension exists, to hold a final hearing on the matter not later than the 61st day after the date of the temporary suspension to determine whether the educator's certification should be revoked.

(f) Requires SBEC, if SOAH does not hold the final hearing within the time required or if the final hearing results in a finding that continued work as an educator by the certificate holder would not constitute a continuing or imminent threat to the safety and welfare of students, educators, or school personnel, to reinstate the educator's certificate and order the school district to reinstate the educator, pay the educator any back pay and employment benefits lost due to the temporary suspension from the time of the suspension to reinstatement, and remove any record of the educator's suspension from the school district's records.

SECTION 2.13. Amends Subchapter B, Chapter 21, Education Code, by adding Section 21.0605, as follows:

Sec. 21.0605. ACTION AGAINST PERSONS WHO ASSIST PERSONS KNOWN TO ENGAGE IN SEXUAL MISCONDUCT. Authorizes SBEC to suspend or revoke a certificate or permit held by a person, impose other sanctions against the person, or refuse to issue a certificate or permit to a person if the person assists a school employee, contractor, or agent in obtaining a new job at a school district or an open-enrollment charter school, apart from the routine transmission of administrative and personnel files, and knew or should have known that the school employee, contractor, or agent engaged in sexual misconduct involving a minor or student in violation of the law.

SECTION 2.14. Amends Sections 21.062(a) and (d), Education Code, as follows:

(a) Authorizes the commissioner, during an investigation by the commissioner of an educator for an alleged incident of misconduct, to issue a subpoena to compel the

attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is located in this state, rather than issue a subpoena to compel the production for inspection and copying of relevant evidence located in this state.

(d) Provides that all information and materials subpoenaed or compiled in connection with an investigation are confidential and not subject to public disclosure under Chapter 552, Government Code, except as provided by this subsection. Requires such information and materials to be made available to the educator under investigation after the completion of the investigation, upon request by the educator.

SECTION 2.15. Amends Subchapter B, Chapter 21, Education Code, by adding Section 21.063, as follows:

Sec. 21.063. INVESTIGATION RECORDS. (a) Provides that an investigation record of SBEC, including a record relating to a complaint that is found to be groundless, is confidential and not subject to disclosure under the public access provisions of Chapter 552, Government Code.

(b) Authorizes all investigation records of SBEC, except as provided by a protective order, and notwithstanding Subsection (a), to be used in disciplinary proceedings against an educator based on an alleged incident of misconduct.

SECTION 2.16. Amends Section 21.355, Education Code, by amending Subsection (a) and adding Subsections (d) and (e), as follows:

(a) Provides that a document evaluating the performance of a teacher or administrator is confidential and not subject to disclosure under the public access provisions of Chapter 552, Government Code.

(d) Authorizes a school district or open-enrollment charter school to provide to TEA a document evaluating the performance of a teacher or administrator employed by the district or school. Authorizes a document to be provided to TEA only for the purpose of aiding a TEA investigation.

(e) Authorizes documents provided to TEA under Subsection (d), except as provided by a protective order, and notwithstanding Subsection (a), to be used in a disciplinary proceeding against an educator based on an alleged incident of misconduct.

SECTION 2.17. Amends Section 22.085, Education Code, by amending Subsection (a) and adding Subsection (b-1), 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 it obtains information through a criminal history record information review that the employee or applicant has been convicted of:

(1) a felony offense under Title 5, Penal Code, and at the time the offense occurred the victim of the offense was under 18 years of age or was enrolled in a public school;

(2) makes no changes to the text of this subdivision;

(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 an offense under Paragraph (A) or (B).

Redesignates existing Paragraphs (A), (B), and (C) as Subdivisions (1), (2), and (3).

(b-1) Requires a school district, open-enrollment charter school, or shared services arrangement to discharge or to refuse to hire any person whose employment would place the district, school, or shared services arrangement in violation of Section 22.088(b). Provides that the employment prohibition under this subsection includes a person hired as an independent contractor.

SECTION 2.18. Amends Subchapter C, Chapter 22, Education Code, by adding Section 22.088, as follows:

Sec. 22.088. REGISTRY OF PERSONS BARRED FROM EMPLOYMENT. (a) Requires TEA to create and maintain a registry of persons who have committed certain violations.

(b) Prohibits a person listed on the registry from being employed by or serving as a teacher, librarian, educational aide, administrator, or school counselor or in any other position with direct, unsupervised contact with students for a school district, open-enrollment charter school, or shared services arrangement. Provides that the employment prohibition includes a person hired as an independent contractor.

(c) Requires a hearing under Subsection (a)(3) to be conducted by SOAH in the manner provided for a contested case under Chapter 2001, Government Code.

(d) Authorizes the commissioner to adopt rules as necessary to implement this section.

SECTION 2.19. Amends Subchapter A, Chapter 38, Education Code, by adding Sections 38.00415 and 38.00416, as follows:

Sec. 38.00415. ASSISTING EMPLOYEES INVOLVED IN SEXUAL MISCONDUCT; OFFENSE. (a) Prohibits a person who is a school district or open-enrollment charter school employee, contractor, or agent, except as provided by Subsection (e), from assisting a current or former school employee, contractor, or agent in obtaining a new job at another school district or open-enrollment charter school if the person knows or should know that the current or former employee, contractor, or agent engaged in sexual misconduct involving a minor or student in violation of the law.

(b) Defines "assist."

(c) Provides that an offense under this section is a Class C misdemeanor.

(d) Requires each school district and open-enrollment charter school to adopt and publish a policy advising the district's or school's employees, contractors, and agents of their obligations under this section.

(e) Provides that Subsection (a) does not apply to assistance given to a current or former employee if the information giving rise to the person's knowledge was properly reported to a law enforcement agency with jurisdiction over the alleged misconduct and to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681 et seq.) and 34 C.F.R. Part 106, and if certain other requirements are met.

Sec. 38.00416. POLICIES ADDRESSING ONE-ON-ONE ELECTRONIC COMMUNICATIONS BETWEEN EMPLOYEES AND STUDENTS. (a) Defines "electronic communication."

(b) Requires each school district to adopt a written policy designed to prevent improper one-on-one electronic communication between school employees and students enrolled in the district. Requires the policy to include, at a minimum, provisions to prevent improper one-on-one electronic communications via e-mail, cellular telephone, or Internet website, including a social media or social

networking website. Requires the policy to provide that a school employee may refuse to engage in one-on-one electronic communication with a student and may decline to provide students or parents with the employee's personal cellular telephone number, email address, or social media information.

SECTION 2.20. Amends Sections 39.0302(a) and (d), Education Code, as follows:

(a) Authorizes the commissioner to issue a subpoena during certain TEA investigations and audits, including a compliance review under Section 21.0061.

(d) Provides that all information and materials subpoenaed or compiled in connection with an investigation, audit, or review described by Subsection (a):

(1) are confidential and not subject to public disclosure under Chapter 552, Government Code, rather than are not subject to disclosure under Chapter 552, Government Code;

(2) makes no changes to this subdivision.

SECTION 2.21. Amends Section 39.056(b), Education Code, as follows:

(b) Requires the commissioner to determine the frequency of monitoring reviews by TEA according to:

(1) makes no changes to this subdivision;

(2) to (3) makes nonsubstantive change; or

(4) the commissioner's determination that a monitoring review is necessary to ensure compliance with reporting requirements under Section 21.006.

SECTION 2.22. Amends Section 39.057(a), Education Code, as follows:

(a) Authorizes the commissioner to authorize special accreditation investigations to be conducted:

(1) to (13) makes no changes to these subdivisions;

(14) makes a nonsubstantive change to this subdivision;

(15) when a school district fails to produce existing evidence or an investigation report in its possession by not later than the 10th business day after the date a request is made by TEA relating to an educator who is under investigation by SBEC; or

(16) redesignates existing Subdivision (15) as Subdivision (16) and makes no further changes.

SECTION 2.23. 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 an offense under Title 5, Penal Code, if the victim of the offense is under 18 years of age; or to an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62.

SECTION 2.24. Amends Section 261.101(b), Family Code, to redefine "professional" to include principals and charter school directors.

SECTION 2.25. Amends Section 261.103, Family Code, by adding Subsection (d), as follows:

(d) Requires the child protective services (CPS) division of the Department of Family and Protective Services (DFPS) to develop a system that allows an education professional to report anonymously to CPS under Subsection (a)(2) (relating to the requirement that a report be made to DFPS) or Subsection (c) (relating to the requirement that a report be made if a person with certain responsibilities for the child is suspected of abuse) using a unique number or other identifier provided by CPS. Requires the unique number or identifier to allow the education professional to document the making of the report and to verify that DFPS has responded to the report. Defines "education professional."

SECTION 2.26. Amends Section 21.12, Penal Code, by amending Subsections (a) and (d) and adding Subsection (a-1), as follows:

(a) Provides that an employee of a public or private primary or secondary school commits an offense if the employee:

(1) makes no changes to this subdivision;

(2) holds certain certificates, permits, or licenses and engages in certain sexual acts with a person the employee knows is enrolled in a public primary or secondary school in a school district in this state, rather than enrolled in a public primary or secondary school in the same school district as the school at which the employee works; or

(3) makes no changes to this subdivision.

(a-1) Provides that Subsection (a) applies to certain education professionals as though the person was an employee of a public or private primary or secondary school.

(d) Prohibits the name of the person who is enrolled in a school and involved in an improper relationship with an educator or other person as provided by Subsection (a) or (a-1) from being released to the public.

### ARTICLE 3. PENSION REVOCATION

SECTION 3.01. Amends Article 42.01, Code of Criminal Procedure, by adding Section 12, as follows:

Sec. 12. Provides that, in addition to the information described by Section 1 (relating to the definition of "a judgment"), the judgment should reflect affirmative findings entered under Article 42.0192.

SECTION 3.02. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0192, as follows:

Art. 42.0192. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE. (a) Requires the judge, in the trial of an offense described by Section 814.013 or 824.009, Government Code, to make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the offense committed was related to the defendant's employment described by Section 814.013(a) or 824.009(a) while a member of the Employees Retirement System of Texas (ERS) or the Teacher Retirement System of Texas (TRS).

(b) Requires a judge that makes the affirmative finding to make the determination and enter the order required by Section 814.013(k) or 824.009(k), Government Code, as applicable.

SECTION 3.03. Amends Subchapter A, Chapter 814, Government Code, by adding Section 814.013, as follows:

Sec. 814.013. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

(a) Provides that this section applies only to a person who is a member or an annuitant of ERS and is or was an employee of the Texas Juvenile Justice department in one of that department's institutional schools who, as defined by rule of the board of trustees of ERS, has or had regular, direct contact with students.

(b) Provides that a person, to the extent ordered by a court under Subsection (k), is not eligible to receive a full service retirement annuity from ERS if the person is finally convicted of an offense the victim of which is a student who is a minor and the offense arises from the person's employment described by Subsection (a) while a member of ERS, and is punishable as a felony under certain sections of the Penal Code.

(c) Requires ERS, to the extent ordered by a court under Subsection (k), to suspend making full annuity payments to a person who is not eligible to receive a full service retirement annuity on receipt by ERS of notice and the terms of the person's conviction.

(d) Requires ERS to resume making full annuity payments if the person made ineligible for a full annuity under Subsection (b) is subsequently found to be not guilty of the offense, or meets the requirements for innocence under Section 103.001(a)(2) (relating to certain conditions entitling a person to compensation), Civil Practice and Remedies Code.

(e) Requires ERS to, as applicable, for a person whose full annuity payments are resumed, reimburse the person for any portion of the annuity payments withheld during a period of suspension; or restore the full eligibility of a person convicted of an offense described by Subsection (b) to receive a service retirement annuity, including the restoration of all service credits accrued by the person before the conviction, if the person satisfies the condition under Subsection (d)(1) or (2).

(f) Provides that, except as provided by Subsection (g), a person convicted of an offense described by Subsection (b) whose eligibility for a service retirement annuity is not fully restored under Subsection (e)(2) is eligible to accrue service credit toward a service retirement annuity from ERS if the person meets certain criteria.

(g) Authorizes ERS, in determining a person's eligibility for retirement benefits under Subsection (f), to include only those service credits that were accrued by the person before the person's conviction for an offense described by Subsection (b) and remaining after conviction of the offense, or earned after fulfilling the requirements under Subsection (f).

(h) Provides that a person who is not eligible to receive a full service retirement annuity is entitled to request and receive a refund of the person's retirement annuity contributions, not including any interest earned on those contributions, except as provided by Subsection (i). Provides that a person who accepts a refund under this subsection terminates the person's membership in ERS.

(i) Provides that benefits payable to certain alternate payees are not affected by a person's ineligibility to receive a full service retirement annuity.

(j) Authorizes the board of trustees of ERS to adopt rules and procedures to implement this section.

(k) Requires a court to determine and order as applicable for a person convicted of an offense described by Subsection (b) the amount by which the person's service retirement annuity payments are to be reduced or accrued service credits are to be

reduced, and to notify ERS of the terms of a conviction ordered under Subdivision (1).

SECTION 3.04. Amends Subchapter A, Chapter 824, Government Code, by adding Section 824.009, as follows:

Sec. 824.009. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

(a) Provides that this section applies only to a person who is a member or an annuitant of TRS and is or was an employee who, as defined by rule of the board of trustees of TRS, has or had regular, direct contact with students.

(b) Provides that a person, to the extent ordered by a court under Subsection (k), is not eligible to receive a full service retirement annuity from TRS if the person is finally convicted of an offense the victim of which is a student who is a minor and the offense meets certain criteria.

(c) Requires TRS, to the extent ordered by a court under Subsection (k), to suspend making full annuity payments to a person who is not eligible to receive a full service retirement annuity under Subsection (b) on receipt by TRS of notice and terms of the person's conviction.

(d) Requires TRS to resume making full annuity payments if the person made ineligible for a full annuity is subsequently found to be not guilty of the offense or meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code.

(e) Requires TRS to, as applicable, for a person whose full annuity payments are resumed under Subsection (d), reimburse the person for any portion of the annuity payments withheld during a period of suspension; or restore the full eligibility of a person convicted of an offense described by Subsection (b) to receive a service retirement annuity, including the restoration of all service credits accrued by the person before the conviction, if the person satisfies the condition under Subsection (d)(1) or (2).

(f) Provides that a person convicted of an offense described by Subsection (b), except as provided by Subsection (g), whose eligibility for a service retirement annuity is not fully restored under Subsection (e)(2) is eligible to accrue service credit toward a service retirement annuity from TRS if the person meets certain criteria.

(g) Authorizes TRS, in determining a person's eligibility for retirement benefits under Subsection (f), to include only those service credits that were accrued by the person before the person's conviction for an offense described by Subsection (b) and remaining after conviction of the offense, or earned after fulfilling the requirements under Subsection (f).

(h) Provides that, except as provided by Subsection (i), a person who is not eligible to receive a full service retirement annuity under Subsection (b) is entitled to request and receive a refund of the person's retirement annuity contributions, not including any interest earned on those contributions. Provides that a person who accepts a refund under this subsection terminates the person's membership in TRS.

(i) Provides that benefits payable to certain alternate payees are not affected by a person's ineligibility to receive a full service retirement annuity under Subsection (b).

(j) Authorizes the board of trustees of TRS to adopt rules and procedures to implement this section.

(k) Requires a court to determine and order as applicable for a person convicted of an offense described by Subsection (b) the amount by which the person's service retirement annuity payments are to be reduced or accrued service credits are to be reduced and notify TRS of the terms of a conviction ordered under Subdivision (1).

#### ARTICLE 4. IMPLEMENTATION; EFFECTIVE DATES

SECTION 4.01. Requires, as soon as practicable, but not later than September 1, 2017, TEA to establish the registry required under Section 22.088, Education Code, as added by this Act, and each school district and open-enrollment charter school to adopt and implement the policy required under Section 38.00415(d), Education Code, as added by this Act.

SECTION 4.02. Makes application of Section 38.00415(c), Education Code, as added by this Act, prospective.

SECTION 4.03. Requires that not later than January 1, 2018, CPS develop and implement the system required by Section 261.103(d), Family Code, as added by this Act.

SECTION 4.04. Makes application of Section 21.12(a), Penal Code, prospective.

SECTION 4.05. Makes application of Section 21.12(a-1), Penal Code, as added by this Act, prospective.

SECTION 4.06. Provides that Sections 2.05, 2.07, 2.09, and 2.16 of this Act apply beginning with the 2017-2018 school year.

SECTION 4.07. Makes application of Section 12, Article 42.01, Code of Criminal Procedure, and Article 42.0192, Code of Criminal Procedure, as added by this Act, prospective.

SECTION 4.08. Makes application of Sections 814.013 and 824.009, Government Code, as added by this Act, prospective.

SECTION 4.09. (a) Requires the board of trustees of ERS to, by rule, not later than December 31, 2017, for the purposes of Section 814.013(a), Government Code, as added by this act, define which employee positions at the institutional schools of the Texas Juvenile Justice Department include regular, direct contact with students.

(b) Requires the board of trustees of TRS to, by rule, not later than December 31, 2017, for the purposes of Section 824.009(a), Government Code, as added by this Act, define which employee positions include regular, direct contact with students.

SECTION 4.10. (a) Effective date, except as provided by Subsection (b): upon passage or September 1, 2017.

(b) Effective date, Section 12.1059, Education Code: January 1, 2018.