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AN ACT

relating to the misconduct of a person who is employed by or is seeking employment by a school district, open-enrollment charter school, regional education service center, or shared services arrangement.

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

SECTION 1. Subsection (b), Section 12.104, Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) satisfactory performance on assessment instruments and to accelerated instruction under Section 28.0211;

(E) high school graduation under Section 28.025;

- 1 (F) special education programs under Subchapter
- 2 A, Chapter 29;
- 3 (G) bilingual education under Subchapter B,
- 4 Chapter 29;
- 5 (H) prekindergarten programs under Subchapter E,
- 6 Chapter 29;
- 7 (I) extracurricular activities under Section
- 8 33.081;
- 9 (J) discipline management practices or behavior
- 10 management techniques under Section 37.0021;
- 11 (K) health and safety under Chapter 38; ~~and~~
- 12 (L) public school accountability under
- 13 Subchapters B, C, D, and G, Chapter 39; and
- 14 (M) the requirement under Section 21.006 to
- 15 report an educator's misconduct.

16 SECTION 2. Subchapter A, Chapter 21, Education Code, is  
17 amended by adding Section 21.006 to read as follows:

18 Sec. 21.006. REQUIREMENT TO REPORT MISCONDUCT. (a) In  
19 this section, "abuse" has the meaning assigned by Section 261.001,  
20 Family Code, and includes any sexual conduct involving an educator  
21 and a student or minor.

22 (b) In addition to the reporting requirement under Section  
23 261.101, Family Code, the superintendent or director of a school  
24 district, regional education service center, or shared services  
25 arrangement shall notify the State Board for Educator Certification  
26 if the superintendent or director has reasonable cause to believe  
27 that:

1           (1) an educator employed by or seeking employment by  
2 the district, service center, or shared services arrangement has a  
3 criminal record;

4           (2) an educator's employment at the district, service  
5 center, or shared services arrangement was terminated based on a  
6 determination that the educator:

7                   (A) abused or otherwise committed an unlawful act  
8 with a student or minor;

9                   (B) possessed, transferred, sold, or distributed  
10 a controlled substance, as defined by Chapter 481, Health and  
11 Safety Code, or by 21 U.S.C. Section 801 et seq., and its subsequent  
12 amendments;

13                   (C) illegally transferred, appropriated, or  
14 expended funds or other property of the district, service center,  
15 or shared services arrangement;

16                   (D) attempted by fraudulent or unauthorized  
17 means to obtain or alter a professional certificate or license for  
18 the purpose of promotion or additional compensation; or

19                   (E) committed a criminal offense or any part of a  
20 criminal offense on school property or at a school-sponsored event;  
21 or

22           (3) the educator resigned and reasonable evidence  
23 supports a recommendation by the superintendent or director to  
24 terminate the educator based on a determination that the educator  
25 engaged in misconduct described by Subdivision (2).

26           (c) The superintendent or director must notify the State  
27 Board for Educator Certification by filing a report with the board

1 not later than the seventh day after the date the superintendent or  
2 director first learns about an alleged incident of misconduct  
3 described by Subsection (b). The report must be:

4 (1) in writing; and

5 (2) in a form prescribed by the board.

6 (d) The superintendent or director shall notify the board of  
7 trustees or governing body of the school district, regional  
8 education service center, or shared services arrangement and the  
9 educator of the filing of the report required by Subsection (c).

10 (e) A superintendent or director who in good faith and while  
11 acting in an official capacity files a report with the State Board  
12 for Educator Certification under this section is immune from civil  
13 or criminal liability that might otherwise be incurred or imposed.

14 (f) The State Board for Educator Certification shall  
15 determine whether to impose sanctions against a superintendent or  
16 director who fails to file a report in violation of Subsection (c).

17 (g) The State Board for Educator Certification shall  
18 propose rules as necessary to implement this section.

19 SECTION 3. Subsection (d), Section 261.105, Family Code, is  
20 amended to read as follows:

21 (d) If the department initiates an investigation and  
22 determines that the abuse or neglect does not involve a person  
23 responsible for the child's care, custody, or welfare, the  
24 department shall refer the report to a law enforcement agency for  
25 further investigation. If the department determines that the abuse  
26 or neglect involves an employee of a public primary or secondary  
27 school, and that the child is a student at the school, the

1 department shall orally notify the superintendent of the school  
2 district in which the employee is employed about the investigation.

3 SECTION 4. This Act applies beginning with the 2003-2004  
4 school year.

5 SECTION 5. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2003.

David Newkum  
President of the Senate

Tom Cudde  
Speaker of the House

I hereby certify that S.B. No. 1488 passed the Senate on April 22, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2003, by the following vote: Yeas 31, Nays 0.

Daisy Saw  
Secretary of the Senate

I hereby certify that S.B. No. 1488 passed the House, with amendment, on May 28, 2003, by the following vote: Yeas 144, Nays 0, two present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

18 JUN '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30 PM O'CLOCK

Heather Shea  
Secretary of State