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Higher Education

Higher education board backs proposal for community college baccalaureate programs in nursing, applied sciences

[August 7](#) — The Texas Higher Education Coordinating Board voted at its July 24 meeting to recommend that the Legislature allow certain community colleges to offer four-year baccalaureate degree programs in nursing and in certain applied sciences and technology fields. The proposal stems from [SB 414](#) by Ellis, enacted by the 83rd Legislature in 2013, which required the coordinating board to examine whether community colleges could address regional workforce shortages with expanded baccalaureate programs in certain fields. The coordinating board has identified nursing, computer and information technology support, fire management, production and operations management, and health information technology support as vital fields facing a shortage of workers in Texas.

Under the proposal supported by the board, a community college seeking to offer a baccalaureate degree program in one of these fields would have to meet the same standards as similar programs at four-year universities. This would include demonstrating short- and long-term workforce needs for the program, having faculty and library services that meet accreditation standards, identifying specific revenue sources for the programs, and creating a review process to assess quality and effectiveness.

Only community colleges with at least \$2.5 billion in physical infrastructure would be allowed to apply to the coordinating board to offer baccalaureate degrees, and the new programs would have to be built on existing associate degree programs. The community college would have to show that it had explored partnership options with local universities and that a proposed program would not duplicate existing baccalaureate programs in the region.

Among the states that allow community colleges to issue baccalaureate degrees are Florida and Washington. Most community colleges in Florida offer at least one four-year baccalaureate program. A community college in Washington may offer a baccalaureate degree only if the same program is not already available at one of the state's traditional four-year institutions.

Supporters of the expanded degree offerings say they would increase student access to programs designed to help fill workforce shortages. Community colleges are well positioned to do this because they tend to have more experience in technical training and offer smaller classes than traditional four-year institutions. While some institutions might need to expand their catalog of liberal arts courses in order to offer baccalaureate degrees, many already offer the foundational liberal arts courses needed for a variety of Texas baccalaureate programs.

Far from encouraging “mission creep,” supporters say, expanding current associate degree programs in nursing or applied sciences would be a prudent way to leverage the resources of institutions charged with preparing students for jobs in high-demand fields. Requiring that adequate funding be demonstrated as a prerequisite to offering these degrees would protect the financial stability and sustainability of the programs. While new community college programs might attract faculty from existing four-year programs, the increased number of workers in nursing and applied sciences could also bolster the ranks of qualified instructors available to Texas institutions of higher education.

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Opponents of the expanded degree offerings say they would contribute to the mission creep of community colleges, many of which already are strapped for funding and have a difficult time meeting their current state mandates for education and job training. Community colleges play a vital role in delivering post-secondary education to the Texas workforce, but spending scarce state and local tax revenue on baccalaureate programs that might benefit only a small number of future workers would not be a wise investment, according to opponents.

Public Health, Regulation and Licensing

Lawmakers may consider banning e-cigarette sales to minors

[August 21](#) — Some local governments in Texas recently have adopted policies regulating the sale of electronic cigarettes to minors, and lawmakers may address the issue on a statewide level in the upcoming legislative session. The U.S. Food and Drug Administration has not finalized proposed federal rules on the sale and use of e-cigarettes.

E-cigarettes are battery-powered devices through which nicotine or other vapors are inhaled. The increasing popularity of e-cigarettes among young people and the ability of minors to obtain them have become growing concerns for lawmakers. The National Youth Tobacco Survey conducted by the Centers for Disease Control and Prevention indicated that use of e-cigarettes by U.S. high school students nationwide rose from 4.7 percent in 2011 to 10 percent in 2012.

Several school districts in Texas have preemptively banned the use of e-cigarettes on campus. At least a dozen cities have adopted ordinances prohibiting the sale of e-cigarettes to minors. Future proposed statewide legislation could seek to ban e-cigarette sales to minors by adding them to existing tobacco regulations.

In Texas, Health and Safety Code, [sec. 161.082](#) prohibits the sale of cigarettes or tobacco products to people under age 18. Cigarettes, as defined under Tax Code, [sec. 154.001](#), are made of “tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco.” Tobacco products, defined under Tax Code, [sec. 155.001 \(15\)](#), include cigars, chewing tobacco, and any product that is “made of tobacco or a tobacco substitute and that is not a cigarette.”

The focus on offering baccalaureate degrees could lead to unproductive competition between community colleges and traditional four-year institutions in the state, opponents say, and this could drain faculty from existing four-year programs, especially nursing. In addition, community colleges may have difficulty providing the broad selection of quality liberal arts courses required to issue a baccalaureate degree.

— by Tom Howe

Several states recently have defined e-cigarettes separately in statute and prohibited their sale to minors. Some of these proposed laws have faced opposition from groups that favor treating e-cigarettes the same as tobacco for tax and regulatory purposes. Iowa recently enacted such a law, and Michigan legislation is awaiting action from the governor. Before a bill was passed in Florida, critics opposed a provision, later removed, that they said would limit local governments’ power to regulate tobacco products.

Supporters of regulating e-cigarettes in the same way as tobacco products say it provides the most robust approach for keeping the devices out of the hands of minors and protecting public health. Many e-cigarettes, although tobacco-free, contain nicotine, which is highly addictive. Flavored e-cigarettes, in particular, are enticing to youth and could be a gateway to the use of traditional cigarettes or illegal substances, they say.

Opponents of regulating e-cigarettes in the same way as tobacco products say sales of the devices to minors can and should be banned without subjecting e-cigarettes to the entire regulatory scheme of traditional cigarettes, which would be both unnecessary and inappropriate.

Other opponents of regulating e-cigarettes in the same way as tobacco products say the devices could offer a safer alternative to cigarettes for those who already smoke heavily and that it would be impulsive to ban the sale of e-cigarettes to minors without evidence of the health risks.

— by Mary Beth Schaefer

Criminal Justice

States respond to ‘revenge porn’

August 27 — Texas may join an increasing number of states considering legislation to address what is known as “revenge porn.” The term usually refers to electronic distribution of sexually explicit images of someone without the subject’s permission. The images, sometimes taken without consent, may be posted on websites or emailed to employers, schools, family members, and others. Sometimes contact or identifying information, including names and Social Security numbers, are included.

According to the National Conference of State Legislatures (NCSL), most state laws criminalizing these activities are misdemeanors, with subsequent offenses sometimes felonies. In 2013, California became the first state to enact a law specifically to address recent cases. Another 12 states since have approved new laws, and about half considered legislation in 2014, according to NCSL. A compilation of state efforts to enact these laws appears on the [NCSL website](#).

Current Texas criminal laws. While Texas law does not specifically make distributing revenge porn illegal, aspects of it may currently be crimes. Harassment is a class B misdemeanor under Penal Code, [sec. 42.07](#), which includes sending repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another. Impersonating another through online communications ranges from a class A misdemeanor to a third-degree felony under Penal Code, [sec. 33.07](#). This offense can involve using someone else’s name without consent to create a web page on a social networking or other site or to post or send messages with an intent to harm, intimidate, or threaten.

Texas’ improper photography law, under Penal Code, [sec. 21.15](#), includes photographing, recording, broadcasting, or transmitting images without consent and with intent to arouse or gratify sexual desire. It is a state-jail felony. This law has been challenged in court as vague, overbroad, and violating the First Amendment. The Texas Court of Criminal Appeals heard oral arguments in May in *Ex Parte Thompson*, which challenges the law.

Should states address revenge porn with new criminal laws? Criminal laws recently enacted in other states may prohibit posting or distributing sexually explicit images

without the subject’s permission. Another approach is creating a cause of action for civil damages. The 83rd Legislature in 2013 considered [HB 3627](#) by M. González, which would have made individuals liable to certain victims for “promotion of an improper visual image.” It died in the Judiciary and Civil Jurisprudence Committee.

Supporters of new criminal laws to address revenge porn say current laws provide inadequate deterrence and punishment. Victims can suffer threats, harassment, stalking, and sexual exploitation that intrude into their work, school, or personal lives. Harm is difficult to remedy because removing images from the Internet rarely prevents continued distribution. Website operators can deny knowing who posted the content, while those who post or distribute it may deny responsibility for its viral spread.

Civil lawsuits may provide inadequate compensation. Websites and defendants may have limited resources, making damage recovery difficult. Victims may lack resources to pursue lawsuits or be unwilling to attract further attention. Copyright law may provide ineffective redress because the photographer, not the subject, often owns the image’s copyright. Website operators can sometimes use federal laws to deny responsibility for content posted by others.

New criminal laws could be narrowly drafted with exemptions to ensure they were not overly broad or vague and did not unconstitutionally infringe on free speech. They could require intent and proof of harm or could include exemptions for matters of public importance or for certain commercial or law enforcement actions.

Critics of new criminal laws to address revenge porn say that in many cases, current statutes, including those for harassment, impersonating another, and improper photography, already criminalize these activities. In addition, victims currently can seek redress through civil courts, critics say. In February 2014, a woman was awarded \$500,000 by a Harris County jury for intentional infliction of emotional distress, invasion of privacy, and defamation in such a case. A 2014 California civil case resulted in a \$250,000 jury award. Copyright laws also could be used in some cases to require removal of images from websites.

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States should be cautious about creating new crimes for nonviolent behaviors. While distributing these images may be reprehensible, critics say, these cases generally should be handled outside the criminal justice system, whose resources are better spent dealing with dangerous criminals.

It would be difficult to craft an effective law that did not also lead to free speech violations or unfair convictions.

Public Education

Texas considers role of K-12 online learning

August 28 — As technological advances increasingly affect the education of students from kindergarten through high school, questions linger about the best ways to employ technology and integrate online learning. While most Texas students still attend “brick and mortar” schools, a certain number are choosing online learning — both fully online schools and individual online courses combined with traditional classroom learning.

The Senate Education Committee this week heard testimony on the ongoing implementation of legislation enacted in 2013 to address online learning in Texas schools. The hearing focused on provisions in [HB 1926](#) to:

- allow private entities and nonprofits to offer courses on the state network of supplemental online courses;
- increase information available to prospective students about specific courses; and
- study the sufficiency of broadband access at districts across Texas.

Definitions of “revenge porn” could be overly vague, laws criminalizing normal speech or activities could be overly broad, and laws too narrowly drawn could be inadequate to help most victims.

— by Kellie A. Dworaczyk

Proposals to expand online learning opportunities have generated discussion on the costs to school districts and the state, the suitability of online instruction for every student, and the degree of discretion in course selection that should be provided to students and local school districts. The availability of technology resources, student success in online courses, and how the courses are funded also could affect future decisions about online education. For more on these issues, the history of online education in Texas, and related legislation considered by the 83rd Legislature in 2013, see the recent House Research Organization focus report, [Online Learning: Trends in K-12 Education in Texas](#).