

By: Allen

H.B. No. 3879

A BILL TO BE ENTITLED

AN ACT

relating to corporal punishment in public schools.

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

SECTION 1. Chapter 37, Education Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

RELATING TO DISCIPLINE

Sec. 37.901. CORPORAL PUNISHMENT. (a) In this section, "corporal punishment" includes hitting, spanking, paddling, or deliberately inflicting physical pain by any means on the whole or any part of a student's body as a penalty or punishment for the student's behavior on or off campus.

(b) A school district employee or a volunteer or independent contractor of a district may not administer corporal punishment or cause corporal punishment to be administered to a student. This subsection does not apply to corporal punishment administered off campus by a parent to the parent's child.

(c) A school district employee or a volunteer or independent contractor of a district may use reasonable and necessary restraint, as defined by Section 37.0021.

(d) Section 9.62, Penal Code, and Section 22.0511(a) of this code do not apply to an action of a school district employee or a volunteer or independent contractor of a district that violates Subsection (b).

1 SECTION 2. Section 37.0023, Education Code, is transferred  
2 to Subchapter Z, Chapter 37, Education Code, as added by this Act,  
3 redesignated as Section 37.902, Education Code, and amended to read  
4 as follows:

5 Sec. 37.902 [37.0023]. PROHIBITED AVERSIVE TECHNIQUES. (a)  
6 In this section, "aversive technique" means a technique or  
7 intervention that is intended to reduce the likelihood of a  
8 behavior reoccurring by intentionally inflicting on a student  
9 significant physical or emotional discomfort or pain. The term  
10 includes a technique or intervention that:

11 (1) is designed to or likely to cause physical pain[  
12 ~~other than an intervention or technique permitted under Section~~  
13 ~~37.0011~~];

14 (2) [~~notwithstanding Section 37.0011,~~] is designed to  
15 or likely to cause physical pain through the use of electric shock  
16 or any procedure that involves the use of pressure points or joint  
17 locks;

18 (3) involves the directed release of a noxious, toxic,  
19 or otherwise unpleasant spray, mist, or substance near the  
20 student's face;

21 (4) denies adequate sleep, air, food, water, shelter,  
22 bedding, physical comfort, supervision, or access to a restroom  
23 facility;

24 (5) ridicules or demeans the student in a manner that  
25 adversely affects or endangers the learning or mental health of the  
26 student or constitutes verbal abuse;

27 (6) employs a device, material, or object that

1 simultaneously immobilizes all four extremities, including any  
2 procedure that results in such immobilization known as prone or  
3 supine floor restraint;

4 (7) impairs the student's breathing, including any  
5 procedure that involves:

6 (A) applying pressure to the student's torso or  
7 neck; or

8 (B) obstructing the student's airway, including  
9 placing an object in, on, or over the student's mouth or nose or  
10 placing a bag, cover, or mask over the student's face;

11 (8) restricts the student's circulation;

12 (9) secures the student to a stationary object while  
13 the student is in a sitting or standing position;

14 (10) inhibits, reduces, or hinders the student's  
15 ability to communicate;

16 (11) involves the use of a chemical restraint;

17 (12) constitutes a use of timeout that precludes the  
18 student from being able to be involved in and progress  
19 appropriately in the required curriculum and, if applicable, toward  
20 the annual goals included in the student's individualized education  
21 program, including isolating the student by the use of physical  
22 barriers; or

23 (13) except as provided by Subsection (c), deprives  
24 the student of the use of one or more of the student's senses.

25 (b) A school district or school district employee or  
26 volunteer or an independent contractor of a school district may not  
27 apply an aversive technique, or by authorization, order, or

1 consent, cause an aversive technique to be applied, to a student.

2 (c) Notwithstanding Subsection (a)(13), an aversive  
3 technique described by Subsection (a)(13) may be used if the  
4 technique is executed in a manner that:

5 (1) does not cause the student discomfort or pain; or

6 (2) complies with the student's individualized  
7 education program or behavior intervention plan.

8 (d) Nothing in this section may be construed to prohibit a  
9 teacher from removing a student from class under Section 37.002.

10 (e) In adopting procedures under this section, the  
11 commissioner shall provide guidance to school district employees,  
12 volunteers, and independent contractors of school districts in  
13 avoiding a violation of Subsection (b).

14 SECTION 3. Section 22.0512(c), Education Code, is amended  
15 to read as follows:

16 (c) This section does not prohibit a school district from[+]

17 [~~(1) enforcing a policy relating to corporal~~  
18 ~~punishment, or~~

19 [~~(2) notwithstanding Subsection (a),~~] bringing a  
20 disciplinary proceeding against a professional employee of the  
21 district who violates the prohibition on [~~district policy relating~~  
22 ~~to~~] corporal punishment under Section 37.901.

23 SECTION 4. Section 25.007(b), Education Code, is amended to  
24 read as follows:

25 (b) In recognition of the challenges faced by students who  
26 are homeless or in substitute care, the agency shall assist the  
27 transition of students who are homeless or in substitute care from

1 one school to another by:

2 (1) ensuring that school records for a student who is  
3 homeless or in substitute care are transferred to the student's new  
4 school not later than the 10th working day after the date the  
5 student begins enrollment at the school;

6 (2) developing systems to ease transition of a student  
7 who is homeless or in substitute care during the first two weeks of  
8 enrollment at a new school;

9 (3) developing procedures for awarding credit,  
10 including partial credit if appropriate, for course work, including  
11 electives, completed by a student who is homeless or in substitute  
12 care while enrolled at another school;

13 (4) developing procedures to ensure that a new school  
14 relies on decisions made by the previous school regarding placement  
15 in courses or educational programs of a student who is homeless or  
16 in substitute care and places the student in comparable courses or  
17 educational programs at the new school, if those courses or  
18 programs are available;

19 (5) promoting practices that facilitate access by a  
20 student who is homeless or in substitute care to extracurricular  
21 programs, summer programs, credit transfer services, electronic  
22 courses provided under Chapter 30A, and after-school tutoring  
23 programs at nominal or no cost;

24 (6) establishing procedures to lessen the adverse  
25 impact of the movement of a student who is homeless or in substitute  
26 care to a new school;

27 (7) entering into a memorandum of understanding with

1 the Department of Family and Protective Services regarding the  
2 exchange of information as appropriate to facilitate the transition  
3 of students in substitute care from one school to another;

4 (8) encouraging school districts and open-enrollment  
5 charter schools to provide services for a student who is homeless or  
6 in substitute care in transition when applying for admission to  
7 postsecondary study and when seeking sources of funding for  
8 postsecondary study;

9 (9) requiring school districts, campuses, and  
10 open-enrollment charter schools to accept a referral for special  
11 education services made for a student who is homeless or in  
12 substitute care by a school previously attended by the student, and  
13 to provide comparable services to the student during the referral  
14 process or until the new school develops an individualized  
15 education program for the student;

16 (10) requiring school districts, campuses, and  
17 open-enrollment charter schools to provide notice to the child's  
18 educational decision-maker and caseworker regarding events that  
19 may significantly impact the education of a child, including:

20 (A) requests or referrals for an evaluation under  
21 Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or  
22 special education under Section [29.003](#);

23 (B) admission, review, and dismissal committee  
24 meetings;

25 (C) manifestation determination reviews required  
26 by Section [37.004](#)(b);

27 (D) any disciplinary actions under Chapter [37](#) for

1 which parental notice is required;

2 (E) citations issued for Class C misdemeanor  
3 offenses on school property or at school-sponsored activities;

4 (F) reports of restraint and seclusion required  
5 by Section 37.0021; and

6 (G) ~~[use of corporal punishment as provided by  
7 Section 37.0011; and~~

8 ~~[(H)]~~ appointment of a surrogate parent for the  
9 child under Section 29.0151;

10 (11) developing procedures for allowing a student who  
11 is homeless or in substitute care who was previously enrolled in a  
12 course required for graduation the opportunity, to the extent  
13 practicable, to complete the course, at no cost to the student,  
14 before the beginning of the next school year;

15 (12) ensuring that a student who is homeless or in  
16 substitute care who is not likely to receive a high school diploma  
17 before the fifth school year following the student's enrollment in  
18 grade nine, as determined by the district, has the student's course  
19 credit accrual and personal graduation plan reviewed;

20 (13) ensuring that a student in substitute care who is  
21 in grade 11 or 12 be provided information regarding tuition and fee  
22 exemptions under Section 54.366 for dual-credit or other courses  
23 provided by a public institution of higher education for which a  
24 high school student may earn joint high school and college credit;

25 (14) designating at least one agency employee to act  
26 as a liaison officer regarding educational issues related to  
27 students in the conservatorship of the Department of Family and

1 Protective Services; and

2 (15) providing other assistance as identified by the  
3 agency.

4 SECTION 5. Section [37.0011](#), Education Code, is repealed.

5 SECTION 6. This Act applies beginning with the 2021-2022  
6 school year.

7 SECTION 7. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section [39](#), Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2021.