

By: Swanson

H.B. No. 120

A BILL TO BE ENTITLED

AN ACT

relating to parental consent for certain activities engaged in by a school district employee or contractor with respect to the parent's child.

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

SECTION 1. Section 26.009, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (c) to read as follows:

(a) An employee or contractor of a school district must obtain the written consent of a child's parent in the manner required by Subsection (a-2) each time before the employee may:

(1) conduct a psychological or psychiatric examination or test or psychological or psychiatric treatment, unless the examination, test, or treatment is required under Section 38.004 or state or federal law regarding requirements for special education; or

(2) subject to Subsection (b), make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

(a-1) For purposes of Subsection (a):

(1) "Psychological or psychiatric examination or test" means a method designed to elicit information regarding an attitude, habit, trait, opinion, belief, feeling, or mental disorder or a condition thought to lead to a mental disorder,

1 regardless of the manner in which the method is presented or
2 characterized, including a method that is presented or
3 characterized as a survey, check-in, or screening or is embedded in
4 an academic lesson.

5 (2) "Psychological or psychiatric treatment" means
6 the planned, systematic use of a method or technique that is
7 designed to affect behavioral, emotional, or attitudinal
8 characteristics of an individual or group.

9 (a-2) Written consent for a parent's child to participate in
10 a district activity described by Subsection (a) must be obtained
11 for each separate activity in which the child participates, and
12 each written consent must be signed by the parent and returned to
13 the district. A child may not participate in the activity unless
14 the district receives the parent's signed written consent to that
15 activity.

16 (a-3) Subsection (a) does not require an employee of a
17 school district to obtain the written consent of a child's parent
18 before verbally asking the child about the child's general
19 well-being, and for purposes of Subsections (a) and (a-1)(1), the
20 term "check-in" does not include such an inquiry.

21 (b) An employee or contractor of a school district is not
22 required to obtain the consent of a child's parent before the
23 employee or contractor may make a videotape of a child or authorize
24 the recording of a child's voice if the videotape or voice recording
25 is to be used only for:

26 (1) purposes of safety, including the maintenance of
27 order and discipline in common areas of the school or on school

1 buses;

2 (2) a purpose related to a cocurricular or
3 extracurricular activity;

4 (3) a purpose related to regular classroom
5 instruction;

6 (4) media coverage of the school; or

7 (5) a purpose related to the promotion of student
8 safety under Section 29.022.

9 (c) A school district shall retain the written informed
10 consent of a child's parent obtained under this section as part of
11 the child's education records.

12 (d) Nothing in this section may be construed to affect:

13 (1) a child's consent to counseling under Section
14 32.004, Family Code; or

15 (2) the duty to report child abuse or neglect under
16 Chapter 261, Family Code, or an investigation of a report of abuse
17 or neglect under that chapter.

18 SECTION 2. This Act applies beginning with the 2024-2025
19 school year.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for effect on that date,
24 this Act takes effect on the 91st day after the last day of the
25 legislative session.