

By: Allen

H.B. No. 3546

A BILL TO BE ENTITLED

AN ACT

relating to the justified use of force by a school employee or volunteer against a student.

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

SECTION 1. Section 22.0512, Education Code, is amended to read as follows:

Sec. 22.0512. IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR DISTRICT [~~PROFESSIONAL~~] EMPLOYEES. (a) An [~~A professional~~] employee of a school district may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code.

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing an [~~a professional~~] employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or

(2) an action brought by the State Board for Educator Certification to enforce the educator's code of ethics adopted under Section 21.041(b)(8).

(c) This section does not prohibit a school district from:

(1) enforcing a policy relating to corporal punishment; or

(2) notwithstanding Subsection (a), bringing a disciplinary proceeding against an [~~a professional~~] employee of the

1 district who violates the district policy relating to corporal
2 punishment.

3 SECTION 2. Section 9.62, Penal Code, is amended to read as
4 follows:

5 Sec. 9.62. JUSTIFIED USE OF FORCE AGAINST STUDENT
6 ~~[EDUCATOR-STUDENT]~~. (a) In this section:

7 (1) "Emergency" means a situation in which a student's
8 behavior poses a threat of imminent, serious bodily injury to the
9 student or others.

10 (2) "Student" means a person who is registered in or in
11 attendance at a school or educational institution.

12 (b) Except as provided by Subsection (c), the [The] use of
13 force, but not deadly force, by an employee or volunteer of the
14 school or educational institution against a student [person] is
15 justified:

16 (1) if permitted as a form of corporal punishment
17 under Section 37.0011, Education Code [the actor is entrusted with
18 the care, supervision, or administration of the person for a
19 special purpose]; [and]

20 (2) when and to the degree the actor reasonably
21 believes the force is necessary to protect the safety of students or
22 staff of the school or educational institution during an emergency,
23 provided that the use of force is:

24 (A) limited to the degree of force the actor
25 reasonably believes is necessary to address the emergency;

26 (B) discontinued when the emergency no longer
27 exists; and

1 (C) carried out in a manner that protects the
2 health and safety of the student who is subject to the use of force
3 and others; or

4 (3) if the use of force consists of:

5 (A) physical contact or appropriately prescribed
6 adaptive equipment that is used to promote normative body
7 positioning or physical functioning of the student;

8 (B) limited physical contact with the student to
9 provide guidance to a location, prevent an accident, perform first
10 aid, or provide comfort;

11 (C) limited physical contact or appropriately
12 prescribed adaptive equipment that is used to prevent the student
13 from engaging in ongoing, repetitive self-injurious behavior; or

14 (D) the use of a seat belt or other safety
15 equipment that is used to secure the student during transportation
16 [~~further the special purpose or to maintain discipline in a group~~].

17 (c) The use of an aversive technique prohibited under
18 Section 37.0023, Education Code, is not a justified use of force
19 under this section.

20 SECTION 3. The change in law made by this Act applies only
21 to an offense committed on or after the effective date of this Act.
22 An offense committed before the effective date of this Act is
23 governed by the law in effect on the date the offense was committed,
24 and the former law is continued in effect for that purpose. For
25 purposes of this section, an offense was committed before the
26 effective date of this Act if any element of the offense occurred
27 before that date.

1 SECTION 4. This Act takes effect September 1, 2023.