

By: Swanson

H.B. No. 789

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requiring parental consent for psychological or
3 psychiatric examination, testing, or treatment conducted by school
4 district personnel.

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

6 SECTION 1. Section 26.009, Education Code, is amended to
7 read as follows:

8 Sec. 26.009. CONSENT REQUIRED FOR CERTAIN ACTIVITIES. (a)

9 In this section:

10 (1) "Psychological or psychiatric examination or
11 test" means a method designed to elicit information regarding an
12 attitude, habit, trait, opinion, belief, feeling, or mental
13 disorder or a condition thought to lead to a mental disorder,
14 regardless of the manner in which the method is presented or
15 characterized, including a method that is presented or
16 characterized as a survey, check-in, or screening or is embedded in
17 an academic lesson.

18 (2) "Psychological or psychiatric treatment" means
19 the planned, systematic use of a method or technique that is
20 designed to affect behavioral, emotional, or attitudinal
21 characteristics of an individual or group.

22 (b) An employee or contractor of a school district must
23 obtain the written, signed consent of a child's parent for each
24 separate activity described by this subsection in which the child

1 will participate before the employee or contractor may:

2 (1) conduct a psychological or psychiatric
3 examination or~~[7]~~ test~~[7]~~ or psychological or psychiatric
4 treatment with respect to the child, unless the examination, test,
5 or treatment is required under Section 38.004 or state or federal
6 law regarding requirements for special education; or

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

10 (c) [~~(b)~~] An employee or contractor of a school district is
11 not required to obtain the consent of a child's parent before the
12 employee or contractor may make a videotape of a child or authorize
13 the recording of a child's voice if the videotape or voice recording
14 is to be used only for:

15 (1) purposes of safety, including the maintenance of
16 order and discipline in common areas of the school or on school
17 buses;

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

20 (3) a purpose related to regular classroom
21 instruction;

22 (4) media coverage of the school; or

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

25 (d) A school district shall retain every consent of a
26 child's parent obtained under this section as part of the child's
27 education records.

1 (e) Nothing in this section may be construed to:

2 (1) require an employee or contractor of a school
3 district to obtain the written consent of a child's parent before
4 verbally asking the child about the child's general well-being;

5 (2) affect a child's consent to counseling under
6 Section 32.004, Family Code; or

7 (3) affect the duty to report child abuse or neglect
8 under Chapter 261, Family Code, or an investigation of a report of
9 abuse or neglect under that chapter.

10 SECTION 2. This Act applies beginning with the 2025-2026
11 school year.

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2025.