

By: Howard

H.B. No. 1070

A BILL TO BE ENTITLED

AN ACT

relating to a parent's refusal to authorize a school district employee to conduct the psychological or psychiatric testing or treatment of a child; providing penalties.

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

SECTION 1. Chapter 26, Education Code, is amended by adding Section 26.0091 to read as follows:

Sec. 26.0091. REFUSAL OF PSYCHOLOGICAL OR PSYCHIATRIC TESTING OR TREATMENT. (a) A parent's refusal to provide written consent for an employee of a school district to conduct a psychological examination, test, or treatment under Section 26.009(a) or to permit a school employee to administer a psychotropic medication does not constitute neglect or abuse of a child as defined by Section 261.001, Family Code.

(b) An employee of a school district commits an offense if the employee uses or threatens to use a parent's refusal to provide written consent for a psychological examination, test, or treatment under Section 26.009(a) or to permit a school employee to administer a psychotropic medication as a basis for making a report concerning abuse or neglect of a child under Section 261.103, Family Code. An offense under this subsection is a Class A misdemeanor.

(c) Notwithstanding any other provision of law, a parent may bring an action against an employee of a school district who

1 violates Subsection (b) for statutory damages in an amount of not
2 less than \$5,000 or more than \$50,000 for each violation. A
3 plaintiff who prevails in an action under this subsection is
4 entitled to receive court costs and reasonable and necessary
5 attorney's fees.

6 SECTION 2. Section 22.051(b), Education Code, is amended to
7 read as follows:

8 (b) This section does not apply to:

9 (1) the operation, use, or maintenance of any motor
10 vehicle; or

11 (2) a violation of Section 26.0091(b).

12 SECTION 3. This Act applies beginning with the 2003-2004
13 school year.

14 SECTION 4. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2003.