

## **BILL ANALYSIS**

H.B. 359  
By: Allen  
Public Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, provisions for discipline and law and order relating to alternative settings for behavior management in the public school system leave the manner in which corporal punishment is used to the discretion of the school district. In some districts, parents are not provided the opportunity to disallow the use of corporal punishment as a means of discipline for their children, meaning the parents' only option for prevention is to remove an affected student from the school that administers corporal punishment without parental consent.

H.B. 359 seeks to remedy this situation by adding new requirements regarding the use of corporal punishment in disciplining a student to the state law governing discipline and law and order in alternative settings for behavior management.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 1 of this bill.

### **ANALYSIS**

H.B. 359 amends the Education Code to authorize an independent school district educator, if the board of trustees of a district adopts a policy under which corporal punishment is permitted as a method of student discipline, to use corporal punishment to discipline a student only if the student's parent or guardian or other person having lawful control over the student has previously provided written, signed consent to the use of corporal punishment as a method of student discipline and the student is of the same sex as the educator.

H.B. 359 requires a student's parent or guardian or other person having lawful control over the student, in order to provide consent for the use of corporal punishment as a method of student discipline, to provide separate written, signed consent to the board of trustees of the school district each school year in the manner established by the board. The bill authorizes the student's parent or guardian or other person having lawful control over the student to revoke the consent provided to the board of trustees at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

H.B. 359 establishes that, if the school district receives a written, signed consent from one parent, guardian, or other person having lawful control over the student and a written, signed revocation from another parent, guardian, or other person having lawful control over the student, the written, signed revocation controls. The bill requires the school district to maintain original received consent and revocation of consent documents in the district's administrative office.

H.B. 359 requires a school district with a policy under which corporal punishment is permitted to adopt procedures to implement the bill's provisions, including procedures to inform students' parents, guardians, and other persons having lawful control over students of the right to revoke consent to use corporal punishment as a method of student discipline, and to maintain the required consent and revocation of consent documents.

H.B. 359 requires the commissioner of education to adopt rules to require the superintendent of a school district that adopts a policy under which corporal punishment is permitted as a method of student discipline to provide the State Board for Educator Certification prompt written notice if an educator employed by the district uses corporal punishment in violation of the bill's provisions and to adopt rules to require the superintendent of a school district in which corporal punishment is not permitted as a method of student discipline to provide the State Board for Educator Certification prompt written notice if an educator employed by the district uses corporal punishment as a method of student discipline.

H.B. 359 defines "corporal punishment" as the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The bill specifies that the term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint under provisions relating to alternative settings for behavior management.

H.B. 359 makes its provisions applicable beginning with the 2011-2012 school year.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.