

BILL ANALYSIS

Senate Research Center

H.B. 359
By: Allen et al. (Lucio)
Education
5/20/2011
Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

H.B. 359 amends current law relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 37, Education Code, by adding Section 37.0011, as follows:

Sec. 37.0011. USE OF CORPORAL PUNISHMENT. (a) Defines, in this section, "corporal punishment."

(b) Authorizes a district educator, if the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) (relating to providing methods, including options, for managing students in the classroom and on school grounds, disciplining students, and preventing and intervening in student discipline problems) under which corporal punishment is permitted as a method of student discipline, to use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.

(c) Requires a student's parent or guardian or other person having lawful control over the student, to prohibit the use of corporal punishment as a method of student discipline, each school year to provide a separate written, signed statement to the board of trustees of the school district in the manner established by the board.

(d) Authorizes the student's parent or guardian or other person having lawful control over the student to revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

(e) Provides that the provisions in this section do not apply to counties with a population of less than 50,000.

SECTION 2. Amends Section 37.124, Education Code, by adding Subsection (d) to provide that it is an exception to the application of Subsection (a) (relating to a person committing an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities) that, at the time the person engaged in conduct prohibited under that subsection, the person was a student in the sixth grade or a lower grade level.

SECTION 3. Amends Section 37.126, Education Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that, except as provided by Section 37.125 (Exhibition of Firearms), a person commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

Makes a nonsubstantive change.

(c) Provides that it is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person was a student in the sixth grade or a lower grade level.

SECTION 4. Amends Section 42.01, Penal Code, by adding Subsection (f) to provide that it is an exception to the application of Subsections (a)(1) (relating to using abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace), (2) (relating to making an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace), (3) (relating to creating, by chemical means, a noxious and unreasonable odor in a public place), (4) (relating to abusing or threatening a person in a public place in an obviously offensive manner), (5) (relating to making unreasonable noise in a public place other than a sport shooting range, or in or near a private residence that he has no right to occupy), or (6) (relating to fighting with another in a public place) that, at the time the person engaged in conduct prohibited under the applicable subdivision, the person was a student in the sixth grade or a lower grade level, and the prohibited conduct occurred at a public school campus during regular school hours.

SECTION 5. Makes application of Sections 37.124, Education Code, 37.126, Education Code, and 42.01, Penal Code, as amended by this Act, prospective.

SECTION 6. Provides that this Act applies beginning with the 2011-2012 school year.

SECTION 7. Effective date: upon passage or September, 2011.

SUMMARY OF COMMITTEE CHANGES

(1) Amends SECTION 1, by striking Subsection (e) entirely (page 2, lines 13 and 14).