

SENATE AMENDMENTS

2nd Printing

By: Allen, Nash, Shelton, Patrick, Torres

H.B. No. 359

A BILL TO BE ENTITLED

AN ACT

relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.

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

SECTION 1. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0011 to read as follows:

Sec. 37.0011. USE OF CORPORAL PUNISHMENT. (a) In this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include:

(1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or

(2) the use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may 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

1 punishment as a method of student discipline.

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

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

13 (e) The provisions in this section do not apply to counties
14 with a population of less than 50,000.

15 SECTION 2. Section 37.124, Education Code, is amended by
16 adding Subsection (d) to read as follows:

17 (d) It is an exception to the application of Subsection (a)
18 that, at the time the person engaged in conduct prohibited under
19 that subsection, the person was a student in the sixth grade or a
20 lower grade level.

21 SECTION 3. Section 37.126, Education Code, is amended by
22 amending Subsection (a) and adding Subsection (c) to read as
23 follows:

24 (a) Except as provided by Section 37.125, a person commits
25 an offense if the person intentionally disrupts, prevents, or
26 interferes with the lawful transportation of children:

27 (1) to or from school on a vehicle owned or operated by

1 a county or independent school district; or

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

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

9 SECTION 4. Section 42.01, Penal Code, is amended by adding
10 Subsection (f) to read as follows:

11 (f) It is an exception to the application of Subsections
12 (a)(1), (2), (3), (4), (5), or (6) that, at the time the person
13 engaged in conduct prohibited under the applicable subdivision, the
14 person was a student in the sixth grade or a lower grade level, and
15 the prohibited conduct occurred at a public school campus during
16 regular school hours.

17 SECTION 5. The change in law made by Sections 37.124,
18 Education Code, 37.126, Education Code, and 42.01, Penal Code, as
19 amended by this Act, applies only to an offense committed on or
20 after the effective date of this Act. An offense committed before
21 the effective date of this Act is governed by the law in effect on
22 the date the offense was committed, and the former law is continued
23 in effect for that purpose. For purposes of this section, an
24 offense was committed before the effective date of this Act if any
25 element of the offense occurred before that date.

26 SECTION 6. This Act applies beginning with the 2011-2012
27 school year.

1 SECTION 7. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2011.

ADOPTED

MAY 23 2011

FLOOR AMENDMENT NO. 1

Antony Spaw
Secretary of the Senate
Ernie Lewis, Jr.

1 Amend H.B. No. 359 (Senate Committee Report), in SECTION 4
2 of the bill, by striking Section 42.01(f), Penal Code (page 2,
3 lines 9 through 14), and substitute the following:

4 (f) Subsections (a)(1), (2), (3), (5), and (6) do not
5 apply to a person who, at the time the person engaged in conduct
6 prohibited under the applicable subdivision, was a student in
7 the sixth grade or a lower grade level, and the prohibited
8 conduct occurred at a public school campus during regular school
9 hours.

ADOPTED

MAY 23 2011

Lucy Shaw
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: Wendy R Davis

1 Amend H.B. No. 359 (senate committee printing) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subsection (b), Section 37.0021, Education
5 Code, is amended by adding Subdivision (4) to read as follows:

6 (4) "Law enforcement duties" means activities of a
7 peace officer relating to the investigation and enforcement of
8 state criminal laws and other duties authorized by the Code of
9 Criminal Procedure.

10 SECTION _____. Section 37.0021, Education Code, is amended
11 by amending Subsection (g) and adding Subsections (h) and (i) to
12 read as follows:

13 (g) This section and any rules or procedures adopted under
14 this section do not apply to:

15 (1) a peace officer [~~while~~] performing law enforcement
16 duties, except as provided by Subsection (i);

17 (2) juvenile probation, detention, or corrections
18 personnel; or

19 (3) an educational services provider with whom a
20 student is placed by a judicial authority, unless the services are
21 provided in an educational program of a school district.

22 (h) This section and any rules or procedures adopted under
23 this section apply to a peace officer only if the peace officer:

24 (1) is employed or commissioned by a school district;
25 or

26 (2) provides, as a school resource officer, a regular
27 police presence on a school district campus under a memorandum of
28 understanding between the district and a local law enforcement
29 agency.

1 (i) A school district shall report electronically to the
2 agency, in accordance with standards provided by commissioner rule,
3 information relating to the use of restraint by a peace officer
4 performing law enforcement duties on school property or during a
5 school-sponsored or school-related activity. A report submitted
6 under this subsection must be consistent with the requirements
7 adopted by commissioner rule for reporting the use of restraint
8 involving students with disabilities.

9 SECTION _____. The commissioner of education shall adopt
10 rules as provided by Subsection (i), Section 37.0021, Education
11 Code, as added by this Act, as soon as practicable after the
12 effective date of this Act.

COMMITTEE AMENDMENT NO. 1

BY: 

- 1 Amend H.B.359 by striking Section 1, subsection (e), lines 13
- 2 and 14 of page 2.

ADOPTED

MAY 23 2011


Secretary of the Senate

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB359 by Allen (Relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.), **As Passed 2nd House**

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| No significant fiscal implication to the State is anticipated. |
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TEA estimates cost associated with reporting requirements. It is anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

The TEA assumes that school districts likely already provide information on requirements under Section 37.0021 to affected school district staff and that including district-employed police officers among those who receive this information would not present any significant administrative costs.

School districts could incur costs to update their local software systems to comply with the additional reporting requirements related to use of restraint.

Source Agencies:

LBB Staff: JOB, LXH, RBI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 20, 2011

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB359 by Allen (Relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.), **Committee Report 2nd House, As Amended**

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| No fiscal implication to the State is anticipated. |
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Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, RBl, LXH, JGM, JW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 18, 2011

TO: Honorable Florence Shapiro, Chair, Senate Committee on Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB359 by Allen (Relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.), **As Engrossed**

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| No fiscal implication to the State is anticipated. |
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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, LXH, JGM, RBI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 14, 2011

TO: Honorable Rob Eissler, Chair, House Committee on Public Education

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB359 by Allen (Relating to the use of corporal punishment in public schools.), **As Introduced**

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| No fiscal implication to the State is anticipated. |
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Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 701 Central Education Agency

LBB Staff: JOB, LXH, JGM, RBI