

## **BILL ANALYSIS**

C.S.S.B. 712  
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Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that public schools are not expressly prohibited from using certain potentially dangerous restraint and seclusion techniques on students. C.S.S.B. 712 seeks to address this issue and protect students from dangerous disciplinary procedures by providing for such a prohibition.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 712 amends the Education Code to prohibit a public school district or a district employee or volunteer or an independent contractor of a school district from applying an aversive technique, or by authorization, order, or consent, causing an aversive technique to be applied, to a student. The bill defines "aversive technique" as a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain and that includes a technique or intervention that:

- is designed to or likely to cause physical pain, other than an intervention or technique permitted under statutory provisions relating to the use of corporal punishment;
- is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
- involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near a student's face;
- denies adequate sleep, air, food, water, shelter, bedding, physical comfort, or access to a restroom facility;
- ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;
- employs a device, material, or object that simultaneously immobilizes all four extremities;
- impairs the student's breathing;
- restricts the student's circulation;
- secures the student to a stationary object while the student is in a sitting or standing

position;

- inhibits, reduces, or hinders the student's ability to communicate;
- involves the use of a chemical restraint;
- constitutes a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program; or
- deprives a student of the use of one or more of the student's senses.

C.S.S.B. 712 authorizes an aversive technique that deprives the student of the use of one or more of the student's senses to be used if the technique is executed in a manner that does not cause the student discomfort or pain or complies with the student's individualized education program or behavior intervention plan. The bill expressly prohibits its provisions from being construed to prohibit a teacher from removing a student from class to maintain effective discipline in the classroom. The bill requires the commissioner of education, in adopting procedures under the bill's provisions, to provide guidance to district employees, volunteers, and independent contractors of school districts in avoiding such prohibited conduct. The bill applies beginning with the 2019-2020 school year.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 712 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute replaces as an "aversive technique" a technique or intervention that involves directly ridiculing or demeaning the student or subjecting the student to verbal abuse or that can be expected to cause the student emotional trauma with a technique or intervention that ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse.