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et al.

H.B. No. 3630

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of aversive techniques on students
enrolled in public school who receive special education services.

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

SECTION 1. Section [37.0021](#), Education Code, is amended by
adding Subsections (d-1), (d-2), (d-3), and (d-4) to read as
follows:

(d-1) A school district or a school district employee or
volunteer or an independent contractor of a school district may not
apply an aversive technique, or by authorization, order, or
consent, cause an aversive technique to be applied, to a student
with a disability receiving special education services under
Subchapter A, Chapter [29](#). For purposes of this subsection,
"aversive technique" means 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. The term includes a technique or
intervention that:

(1) is designed to or likely to cause physical pain,
other than an intervention or technique permitted under Section
[37.0011](#);

(2) notwithstanding Section [37.0011](#), 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

1 locks;

2 (3) involves the directed release of a noxious, toxic,
3 or otherwise unpleasant spray, mist, or substance near the
4 student's face;

5 (4) denies adequate sleep, air, food, water, shelter,
6 bedding, physical comfort, supervision, or access to a restroom
7 facility;

8 (5) ridicules or demeans the student in a manner that
9 adversely affects or endangers the learning or mental health of the
10 student or constitutes verbal abuse;

11 (6) employs a device, material, or object that
12 simultaneously immobilizes all four extremities, including any
13 procedure that results in such immobilization known as prone or
14 supine floor restraint;

15 (7) impairs the student's breathing, including any
16 procedure that involves:

17 (A) applying pressure to the student's torso or
18 neck; or

19 (B) obstructing the student's airway, including
20 placing an object in, on, or over the student's mouth or nose or
21 placing a bag, cover, or mask over the student's face;

22 (8) restricts the student's circulation;

23 (9) secures the student to a stationary object while
24 the student is in a sitting or standing position;

25 (10) inhibits, reduces, or hinders the student's
26 ability to communicate;

27 (11) involves the use of a chemical restraint;

1 (12) constitutes a use of timeout that precludes the
2 student from being able to be involved in and progress
3 appropriately in the required curriculum and, if applicable, toward
4 the annual goals included in the student's individualized education
5 program, including isolating the student by the use of physical
6 barriers; or

7 (13) except as provided by Subsection (d-2), deprives
8 the student of the use of one or more of the student's senses.

9 (d-2) Notwithstanding Subsection (d-1)(13), an aversive
10 technique described by Subsection (d-1)(13) may be used if the
11 technique is executed in a manner that:

12 (1) does not cause the student pain or discomfort; or

13 (2) complies with the student's individualized
14 education program or behavior intervention plan.

15 (d-3) Nothing in Subsection (d-1) or (d-2) may be construed
16 to prohibit a teacher from removing a student from class under
17 Section 37.002.

18 (d-4) In adopting procedures under this section, the
19 commissioner shall provide guidance to school district employees,
20 volunteers, and independent contractors of school districts in
21 avoiding a violation of Subsection (d-1).

22 SECTION 2. This Act applies beginning with the 2019-2020
23 school year.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2019.