A BILL TO BE ENTITLED

1   AN ACT

2 relating to prohibiting the use of certain aversive techniques on

3 students enrolled in public schools.

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

5   SECTION 1. Subchapter A, Chapter 37, Education Code, is

6 amended by adding Section 37.0023 to read as follows:

7   Sec. 37.0023. PROHIBITED AVERSIVE TECHNIQUES. (a) In this

8 section, "aversive technique" means a technique or intervention

9 that is intended to reduce the likelihood of a behavior reoccurring

10 by intentionally inflicting on a student significant physical or

11 emotional discomfort or pain. The term includes a technique or

12 intervention that:

13   (1) is designed to or likely to cause physical pain,

14 other than an intervention or technique permitted under Section

15 37.0011;

16   (2) notwithstanding Section 37.0011, is designed to or

17 likely to cause physical pain through the use of electric shock or

18 any procedure that involves the use of pressure points or joint

19 locks;

20   (3) involves the directed release of a noxious, toxic,

21 or otherwise unpleasant spray, mist, or substance near the

22 student's face;

23   (4) denies adequate sleep, air, food, water, shelter,

24 bedding, physical comfort, or access to a restroom facility;

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1   (5) involves directly ridiculing or demeaning the

2 student or subjecting the student to verbal abuse or that can be

3 expected to cause the student emotional trauma;

4   (6) employs a device, material, or object that

5 simultaneously immobilizes all four extremities, including any

6 procedure that results in such immobilization known as prone or

7 supine floor restraint;

8   (7) impairs the student's breathing, including any

9 procedure that involves:

10   (A) applying pressure to the student's torso or

11 neck; or

12   (B) obstructing the student's airway, including

13 placing an object in, on, or over the student's mouth or nose or

14 placing a bag, cover, or mask over the student's face;

15   (8) restricts the student's circulation;

16   (9) secures the student to a stationary object while

17 the student is in a sitting or standing position;

18   (10) inhibits, reduces, or hinders the student's

19 ability to communicate;

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

21   (12) constitutes a use of timeout that precludes the

22 student from being able to be involved in and progress

23 appropriately in the required curriculum and, if applicable, toward

24 the annual goals included in the student's individualized education

25 program, including isolating the student by the use of physical

26 barriers; or

27   (13) except as provided by Subsection (c), deprives

1 the student of the use of one or more of the student's senses.

2   (b) A school district or school district employee or

3 volunteer or an independent contractor of a school district may not

4 apply an aversive technique, or by authorization, order, or

5 consent, cause an aversive technique to be applied, to a student.

6   (c) Notwithstanding Subsection (a)(13), an aversive

7 technique described by Subsection (a)(13) may be used if the

8 technique is executed in a manner that:

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

10   (2) complies with the student's individualized

11 education program or behavior intervention plan.

12   (d) Nothing in this section may be construed to prohibit a

13 teacher from removing a student from class under Section 37.002.

14   (e) In adopting procedures under this section, the

15 commissioner shall provide guidance to school district employees,

16 volunteers, and independent contractors of school districts in

17 avoiding a violation of Subsection (b).

18   SECTION 2. This Act applies beginning with the 2019-2020

19 school year.

20   SECTION 3. This Act takes effect immediately if it receives

21 a vote of two-thirds of all the members elected to each house, as

22 provided by Section 39, Article III, Texas Constitution. If this

23 Act does not receive the vote necessary for immediate effect, this

24 Act takes effect September 1, 2019.