

SENATE AMENDMENTS

2nd Printing

By: Meyer, González of El Paso, Shaheen,
et al.

H.B. No. 3630

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

8 (d-1) A school district or a school district employee or
9 volunteer or an independent contractor of a school district may not
10 apply an aversive technique, or by authorization, order, or
11 consent, cause an aversive technique to be applied, to a student
12 with a disability receiving special education services under
13 Subchapter A, Chapter 29. For purposes of this subsection,
14 "aversive technique" means a technique or intervention that is
15 intended to reduce the likelihood of a behavior reoccurring by
16 intentionally inflicting on a student significant physical or
17 emotional discomfort or pain. The term includes a technique or
18 intervention that:

19 (1) is designed to or likely to cause physical pain,
20 other than an intervention or technique permitted under Section
21 37.0011;

22 (2) notwithstanding Section 37.0011, is designed to or
23 likely to cause physical pain through the use of electric shock or
24 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.

ADOPTED

MAY 22 2019

Leta Spaw
Secretary of the Senate

Tommy Luciani

By: _____

H.B. No. 3630

Substitute the following for H.B. No. 3630:

By: *Tommy Luciani*

C.S. H.B. No. 3630

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of certain aversive techniques on students enrolled in public schools.

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

SECTION 1. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0023 to read as follows:

Sec. 37.0023. PROHIBITED AVERSIVE TECHNIQUES. (a) In this section, "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 locks;

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

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

1 facility;
2 (5) ridicules or demeans the student in a manner that
3 adversely affects or endangers the learning or mental health of the
4 student or constitutes verbal abuse;
5 (6) employs a device, material, or object that
6 simultaneously immobilizes all four extremities, including any
7 procedure that results in such immobilization known as prone or
8 supine floor restraint;
9 (7) impairs the student's breathing, including any
10 procedure that involves:
11 (A) applying pressure to the student's torso or
12 neck; or
13 (B) obstructing the student's airway, including
14 placing an object in, on, or over the student's mouth or nose or
15 placing a bag, cover, or mask over the student's face;
16 (8) restricts the student's circulation;
17 (9) secures the student to a stationary object while
18 the student is in a sitting or standing position;
19 (10) inhibits, reduces, or hinders the student's
20 ability to communicate;
21 (11) involves the use of a chemical restraint;
22 (12) constitutes a use of timeout that precludes the
23 student from being able to be involved in and progress
24 appropriately in the required curriculum and, if applicable, toward
25 the annual goals included in the student's individualized education
26 program, including isolating the student by the use of physical
27 barriers; or

1 (13) except as provided by Subsection (c), deprives
2 the student of the use of one or more of the student's senses.

3 (b) A school district or school district employee or
4 volunteer or an independent contractor of a school district may not
5 apply an aversive technique, or by authorization, order, or
6 consent, cause an aversive technique to be applied, to a student.

7 (c) Notwithstanding Subsection (a)(13), an aversive
8 technique described by Subsection (a)(13) may be used if the
9 technique is executed in a manner that:

- 10 (1) does not cause the student pain or discomfort; or
11 (2) complies with the student's individualized
12 education program or behavior intervention plan.

13 (d) Nothing in this section may be construed to prohibit a
14 teacher from removing a student from class under Section 37.002.

15 (e) In adopting procedures under this section, the
16 commissioner shall provide guidance to school district employees,
17 volunteers, and independent contractors of school districts in
18 avoiding a violation of Subsection (b).

19 SECTION 2. This Act applies beginning with the 2019-2020
20 school year.

21 SECTION 3. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3630 by Meyer (Relating to prohibiting the use of certain aversive techniques on students enrolled in public schools.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

Local Government Impact

The Texas Education Agency reports that the bill would likely have a fiscal impact to charter and school districts, to the extent that they have to change existing policies and procedures regarding training and supervision to implement the provisions of the bill; such impact would vary by district.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, SD, HL, AM, PM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 16, 2019

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB3630** by Meyer (Relating to prohibiting the use of certain aversive techniques on students enrolled in public schools.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

The Texas Education Agency reports that the bill would likely have a fiscal impact to charter and school districts, to the extent that they have to change existing policies and procedures regarding training and supervision to implement the provisions of the bill; such impact would vary by district.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, HL, AM, PM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 15, 2019

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3630 by Meyer (Relating to prohibiting the use of aversive techniques on students enrolled in public school who receive special education services.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

The Texas Education Agency reports that the bill would likely have a fiscal impact to charter and school districts, to the extent that they have to change existing policies and procedures regarding training and supervision to implement the provisions of the bill; such impact would vary by district.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, THo, HL, AM, PM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

TO: Honorable Dan Huberty, Chair, House Committee on Public Education

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB3630 by Meyer (Relating to prohibiting the use of certain behavioral interventions on students enrolled in public school who receive special education services.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

The Texas Education Agency reports that the bill would likely have a fiscal impact to charter and school districts, to the extent that they have to change existing policies and procedures regarding training and supervision to implement the provisions of the bill; such impact would vary by district.

Source Agencies: 701 Texas Education Agency

LBB Staff: WP, HL, THo, AM, PM