

**House Bill 3630**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 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 facility;
- (5) 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;
- (6) employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor

SENATE VERSION (CS)

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.

*(See subsection (b) below.)*

(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 facility;
- (5) 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;
- (6) employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor

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restraint;

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

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

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

(8) restricts the student's circulation;

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

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

(11) involves the use of a chemical restraint;

(12) 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, including isolating the student by the use of physical barriers; or

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

*(See subsection (d-1) above.)*

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

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

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

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restraint;

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

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

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

(8) restricts the student's circulation;

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

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

(11) involves the use of a chemical restraint;

(12) 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, including isolating the student by the use of physical barriers; or

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

(b) A school district or 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.

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

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

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

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

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

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

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

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

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

SECTION 2. Same as House version.

SECTION 3. Same as House version.

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