H.B. No. 1788

AN ACT

relating to immunity from liability of public and private schools and security personnel employed by those schools for certain actions of security personnel.

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

SECTION 1.  Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.087 to read as follows:

Sec. 37.087.  IMMUNITY FROM LIABILITY. (a) In this section:

(1)  "Retired peace officer" has the meaning assigned by Section 1701.3161, Occupations Code.

(2)  "Security personnel" includes:

(A)  a school district peace officer;

(B)  a school marshal;

(C)  a school resource officer; and

(D)  a retired peace officer who:

(i)  has been hired by a school district, open-enrollment charter school, or private school to provide security services; or

(ii)  volunteers to provide security services to the school district, open-enrollment charter school, or private school.

(b)  A school district, open-enrollment charter school, or private school is immune from liability for any damages resulting from any reasonable action taken by security personnel to maintain the safety of the school campus, including action relating to possession or use of a firearm.

(c)  A school district, open-enrollment charter school, or private school is immune from liability as provided by Subsection (b) for any damages resulting from any reasonable action taken by a school district, open-enrollment charter school, or private school employee who has written permission from the board of trustees of the school district or the governing body of the open-enrollment charter school or the private school to carry a firearm on campus.

(d)  Any security personnel employed by a school district, open-enrollment charter school, or private school is immune from liability for any damages resulting from any reasonable action taken by the security personnel to maintain the safety of the school campus, including action relating to possession or use of a firearm.

(e)  The statutory immunity provided by this section is in addition to and does not preempt the common law doctrine of official and governmental immunity. To the extent that another statute provides greater immunity to a school district, open-enrollment charter school, or private school than this section, that statute prevails.

SECTION 2.  This Act applies beginning with the 2021-2022 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, 2021.

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    President of the Senate Speaker of the House

I certify that H.B. No. 1788 was passed by the House on April 20, 2021, by the following vote:  Yeas 90, Nays 54, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1788 was passed by the Senate on May 22, 2021, by the following vote:  Yeas 18, Nays 13.

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Secretary of the Senate

APPROVED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                    Date

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                  Governor