

By: White

H.B. No. 3450

A BILL TO BE ENTITLED

AN ACT

relating to the justified use of force by a school employee or volunteer against a student.

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

SECTION 1. Section 22.0512, Education Code, is amended to read as follows:

Sec. 22.0512. IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR DISTRICT [~~PROFESSIONAL~~] EMPLOYEES. (a) An [~~A professional~~] employee of a school district may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code.

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing an [~~a professional~~] employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or

(2) an action brought by the State Board for Educator Certification to enforce the educator's code of ethics adopted under Section 21.041(b)(8).

(c) This section does not prohibit a school district from:

(1) enforcing a policy relating to corporal punishment; or

(2) notwithstanding Subsection (a), bringing a disciplinary proceeding against an [~~a professional~~] employee of the

1 district who violates the district policy relating to corporal  
2 punishment.

3 SECTION 2. Section 9.62, Penal Code, is amended to read as  
4 follows:

5 Sec. 9.62. JUSTIFIED USE OF FORCE AGAINST STUDENT  
6 ~~[EDUCATOR-STUDENT]~~. (a) In this section:

7 (1) "Employee" includes an independent contractor.

8 (2) "Student" means a person who is registered in or in  
9 attendance at a school or educational institution.

10 (b) Except as provided by Subsection (c), the [The] use of  
11 force, but not deadly force, by an employee or volunteer of the  
12 school or educational institution against a student [person] is  
13 justified:

14 (1) if permitted as a form of corporal punishment  
15 under Section 37.0011, Education Code [the actor is entrusted with  
16 the care, supervision, or administration of the person for a  
17 special purpose]; or [and]

18 (2) when and to the degree the actor reasonably  
19 believes the force is necessary to:

20 (A) protect the safety of students or staff of  
21 the school or educational institution;

22 (B) control, train, or educate the student; or

23 (C) [further the special purpose or to] maintain  
24 discipline in a group.

25 (c) The use of an aversive technique prohibited under  
26 Section 37.0023, Education Code, is not a justified use of force  
27 under this section.

1           SECTION 3. The change in law made by this Act applies only  
2 to an offense committed on or after the effective date of this Act.  
3 An offense committed before the effective date of this Act is  
4 governed by the law in effect on the date the offense was committed,  
5 and the former law is continued in effect for that purpose. For  
6 purposes of this section, an offense was committed before the  
7 effective date of this Act if any element of the offense occurred  
8 before that date.

9           SECTION 4. This Act takes effect September 1, 2021.