

By: Lucio

S.B. No. 414

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 protect the safety of students or  
20 staff of the school or educational institution, provided that the  
21 use of force does not deprive the student of a basic human need  
22 [further the special purpose or to maintain discipline in a group].

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

26 SECTION 3. The change in law made by this Act applies only  
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is  
2 governed by the law in effect on the date the offense was committed,  
3 and the former law is continued in effect for that purpose. For  
4 purposes of this section, an offense was committed before the  
5 effective date of this Act if any element of the offense occurred  
6 before that date.

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