By:  Swanson H.B. No. 120

A BILL TO BE ENTITLED

AN ACT

relating to parental consent for certain activities engaged in by a school district employee or contractor with respect to the parent's child.

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

SECTION 1.  Section 26.009, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (c) to read as follows:

(a)  An employee or contractor of a school district must obtain the written consent of a child's parent in the manner required by Subsection (a-2) each time before the employee may:

(1)  conduct a psychological or psychiatric examination or[~~,~~] test[~~,~~] or psychological or psychiatric treatment, unless the examination, test, or treatment is required under Section 38.004 or state or federal law regarding requirements for special education; or

(2)  subject to Subsection (b), make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

(a-1)  For purposes of Subsection (a):

(1)  "Psychological or psychiatric examination or test" means a method designed to elicit information regarding an attitude, habit, trait, opinion, belief, feeling, or mental disorder or a condition thought to lead to a mental disorder, regardless of the manner in which the method is presented or characterized, including a method that is presented or characterized as a survey, check-in, or screening or is embedded in an academic lesson.

(2)  "Psychological or psychiatric treatment" means the planned, systematic use of a method or technique that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group.

(a-2)  Written consent for a parent's child to participate in a district activity described by Subsection (a) must be obtained for each separate activity in which the child participates, and each written consent must be signed by the parent and returned to the district. A child may not participate in the activity unless the district receives the parent's signed written consent to that activity.

(a-3)  Subsection (a) does not require an employee of a school district to obtain the written consent of a child's parent before verbally asking the child about the child's general well-being, and for purposes of Subsections (a) and (a-1)(1), the term "check-in" does not include such an inquiry.

(b)  An employee or contractor of a school district is not required to obtain the consent of a child's parent before the employee or contractor may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

(1)  purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;

(2)  a purpose related to a cocurricular or extracurricular activity;

(3)  a purpose related to regular classroom instruction;

(4)  media coverage of the school; or

(5)  a purpose related to the promotion of student safety under Section 29.022.

(c)  A school district shall retain the written informed consent of a child's parent obtained under this section as part of the child's education records.

(d)  Nothing in this section may be construed to affect:

(1)  a child's consent to counseling under Section 32.004, Family Code; or

(2)  the duty to report child abuse or neglect under Chapter 261, Family Code, or an investigation of a report of abuse or neglect under that chapter.

SECTION 2.  This Act applies beginning with the 2024-2025 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 effect on that date, this Act takes effect on the 91st day after the last day of the legislative session.