88R25150 JTZ-D

By:  Swanson, Hefner, Buckley, Patterson, H.B. No. 1149

     Slawson, et al.

Substitute the following for H.B. No. 1149:

By:  Buckley C.S.H.B. No. 1149

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 to read as follows:

Sec. 26.009.  CONSENT REQUIRED FOR CERTAIN ACTIVITIES. (a) An employee or contractor of a school district must obtain the written informed consent of a child's parent each time before the employee or contractor 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)  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, technique, or psychoactive substance that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group.

(a-2)  Subsection (a) may not be construed to limit the authority of a school district employee or contractor to:

(1)  verbally inquire about a child's general well-being; or

(2)  conduct an academic lesson, provided that the lesson does not directly inquire or probe into a child's mental or emotional state.

(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.

SECTION 2.  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, 2023.