

By: Dutton

H.B. No. 5290

A BILL TO BE ENTITLED

AN ACT

relating to authorizing a private right of action against a school district or open enrollment charter school that violates a student or parental right.

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

SECTION 1. Chapter 26 is amended by adding Section 26.016 to read as follows:

Sec. 26.016. WAIVER OF GOVERNMENTAL IMMUNITY; PERMISSION TO SUE. (a) Pursuant to Texas Education Code 4.001, the belief that parental involvement is necessary for the maximum educational achievement of a child, and to achieve the state's constitutional purpose of a general diffusion of knowledge, this section makes provision for a limited parental cause of action against an independent school district or open-enrollment charter school in order to preserve a student's rights.

(b) Sovereign immunity to suit is waived and abolished for a claim by a parental or legal guardian on behalf of a public school student against a school district or open-enrollment charter school regarding the following:

- (1) violation of Section 1.002, Education Code;
- (2) violation of Chapter 26, Education Code;
- (3) failure to provide a certified educator where required by law;
- (4) assignment to a campus with an unacceptable

1 performance rating for more than two years; or

2 (5) any provision of this code that requires a school
3 district or open-enrollment charter school to involve parents and
4 the school district or open-enrollment charter school does not
5 involve parents.

6 (c) A suit brought under this section is limited to the
7 following:

8 (1) Actual damages, general damages, specific
9 performance, or injunctive relief, if applicable; and

10 (2) Court costs and reasonable attorney's fees.

11 (d) A claimant under this section is not required to exhaust
12 administrative remedies before bringing an action under this
13 section.

14 (e) No independent school district in Texas may exempt
15 themselves from any provision of this act under Chapter 12A.

16 SECTION 2. To the extent of any conflict, this Act prevails
17 over another Act of the 88th Legislature, Regular Session, 2023,
18 relating to nonsubstantive additions to and corrections in enacted
19 codes.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2023.