

House Bill 359
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0011 to read as follows:

Sec. 37.0011. USE OF CORPORAL PUNISHMENT. (a) In this section, "corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include:

(1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or

(2) the use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.

(c) To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board of trustees of the school district in the manner established by the board.

(d) The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

SENATE VERSION (IE)

SECTION 1. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0011 to read as follows:

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(1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or

(2) the use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline.

(c) To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board of trustees of the school district in the manner established by the board.

(d) The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board. [CA1]

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(e) The provisions in this section do not apply to counties with a population of less than 50,000.

No equivalent provision.

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SECTION ___. Subsection (b), Section 37.0021, Education Code, is amended by adding Subdivision (4) to read as follows:

(4) "Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure. [FA2]

No equivalent provision.

SECTION ___. Section 37.0021, Education Code, is amended by amending Subsection (g) and adding Subsections (h) and (i) to read as follows:

(g) This section and any rules or procedures adopted under this section do not apply to:

- (1) a peace officer [while] performing law enforcement duties, except as provided by Subsection (i);
- (2) juvenile probation, detention, or corrections personnel; or
- (3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

- (1) is employed or commissioned by a school district; or
- (2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

(i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule,

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No equivalent provision.

SECTION 2. Section 37.124, Education Code, is amended by adding Subsection (d) to read as follows:

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was a student in the sixth grade or a lower grade level.

SECTION 3. Section 37.126, Education Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Section 37.125, a person commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children;

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from [or] an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited

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information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities. [FA2]

SECTION ___. The commissioner of education shall adopt rules as provided by Subsection (i), Section 37.0021, Education Code, as added by this Act, as soon as practicable after the effective date of this Act. [FA2]

SECTION 2. Same as House version.

SECTION 3. Same as House version.

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under that subdivision, the person was a student in the sixth grade or a lower grade level.

SECTION 4. Section 42.01, Penal Code, is amended by adding Subsection (f) to read as follows:

(f) It is an exception to the application of Subsections (a)(1), (2), (3), (4), (5), or (6) that, at the time the person engaged in conduct prohibited under the applicable subdivision, the person was a student in the sixth grade or a lower grade level, and the prohibited conduct occurred at a public school campus during regular school hours.

SECTION 5. The change in law made by Sections 37.124, Education Code, 37.126, Education Code, and 42.01, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act applies beginning with the 2011-2012 school year.

SECTION 7. 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, 2011.

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SECTION 4. Section 42.01, Penal Code, is amended by adding Subsection (f) to read as follows:

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student in the sixth grade or a lower grade level, and the prohibited conduct occurred at a public school campus during regular school hours. [FA1]

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION 7. Same as House version.

CONFERENCE