

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 811
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Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Helping school districts protect their students is one of the highest priorities of the current legislative session. Current law provides several options for the placement of security personnel on school campuses:

- (1) a school resource officer (commissioned peace officers in the employ of another governmental entity but assigned to the school district, with the district covering salary expenses in proportion to the services rendered);
- (2) a school district police force (Section 37.081(a), Texas Education Code);
- (3) security personnel in the employ of the school district (for these personnel to carry firearms on campus, they must be commissioned peace officers) (Section 37.081(a), Texas Education Code);
- (4) retention of a security company (it is unclear in statute whether these individuals may carry firearms on district property);
- (5) appointment of school marshals licensed by the Texas Commission on Law Enforcement (TCOLE) (Section 37.0811, Texas Education Code); and
- (6) the "Guardian Plan," or granting "written permission for anyone, including designated employees, to carry firearms on campus) (Section 46.03(a)(1), Texas Penal Code).

Liability is a concern for school districts as they contemplate school safety programs. Current state law provides school districts immunity from liability for personal injury (tort) claims (Section 101.051, Texas Civil Practice and Remedies Code). School district employees are immune from liability "for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion on the part of the employee, except in circumstances in which a professional employee uses excessive force in the discipline of students or negligence resulting in bodily injury to students" (Section 22.0511, Texas Education Code). While these statutory provisions provide some degree of cover for school districts acting to protect their students, S.B. 811 applies immunity from liability specifically to school safety programs, extending immunity to school district peace officers, school marshals, school resource officers, retired peace officers (employed by or volunteering for a school district), and any person to whom the school board has given written permission to carry a firearm on campus (referencing security arrangements such as the Guardian Plan). (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 811 amends current law relating to immunity from liability of public and private schools and security personnel employed by those schools for certain actions of security personnel.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 37, Education Code, by adding Section 37.088, as follows:

Sec. 37.088. IMMUNITY FROM LIABILITY. (a) Defines "retired peace officer" and "security personnel."

(b) Provides that a school district, open-enrollment charter school, or private school is immune from liability for any damages resulting from any reasonable action taken by security personnel to maintain the safety of the school campus, including action relating to the possession or use of a firearm.

(c) Provides that a school district, open-enrollment charter school, or private school is immune from liability as provided by Subsection (b) for any damages resulting from any reasonable action taken by a school district, open-enrollment charter school, or private school employee who has written permission from the board of trustees of the school district or the governing body of the open-enrollment charter school or the private school to carry a firearm on campus.

(d) Provides that any security personnel employed by a school district, open-enrollment charter school, or private school is immune from liability for any damages resulting from any reasonable action taken by the security personnel to maintain the safety of the school campus, including action relating to possession or use of a firearm.

(e) Provides that the statutory immunity provided by this section is in addition to and does not preempt the common law doctrine of official and governmental immunity. Provides that, to the extent that another statute provides greater immunity to a school district, open-enrollment charter school, or private school than this section, that statute prevails.

SECTION 2. Provides that this Act applies beginning with the 2019–2020 school year.

SECTION 3. Effective date: upon passage or September 1, 2019.