

## **BILL ANALYSIS**

Senate Research Center

H.B. 3630  
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Education  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas educators are trained to employ a variety of techniques to redirect student behavior, including in situations where a student's safety is threatened. While certain emergency interventions have their place in protecting the safety of students, extreme aversives—behavioral interventions that aim to use negative stimuli to stop or deter a behavior—can cause severe physical, mental, and emotional harm to students and should never be used. Unfortunately, although the vast majority of educators never use such techniques, interested parties have reported instances where extreme interventions such as such as electric shock, noxious sprays or gases, or interventions that impair a student's breathing or circulation have been used due to the lack of guidance on prohibited aversives in current law.

H.B. 3630 provides this guidance by listing extreme aversive interventions that may not be used on any student, under any circumstances. Importantly, H.B. 3630 also directs the commissioner of education to develop guidance that will help educators to avoid the use of these dangerous interventions and develop in their stead positive interventions that will help redirect behavior without causing unnecessary and harmful trauma to students. By clarifying what behavior modification techniques are prohibited and providing direction on positive alternatives, H.B. 3630 will improve the safety and wellbeing of students, especially those with special needs.

H.B. 3630 amends current law relating to prohibiting the use of aversive techniques on students enrolled in public school who receive special education services.

### **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 Section 37.0021, Education Code, by adding Subsections (d-1), (d-2), (d-3), and (d-4), as follows:

(d-1) Prohibits a school district or a school district employee or volunteer or an independent contractor of a school district from applying an aversive technique, or by authorization, order, or consent, causing an aversive technique to be applied, to a student with a disability receiving special education services under Subchapter A (Special Education Program), Chapter 29. Defines "aversive technique," for purposes of this subsection, to mean a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. Provides that the term includes a technique or intervention that:

(1) is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011 (Use of Corporal Punishment);

- (2) notwithstanding Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
- (3) involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
- (4) denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;
- (5) ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;
- (6) employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;
- (7) impairs the student's breathing, including any procedure that involves:
  - (A) applying pressure to the student's torso or neck; or
  - (B) obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;
- (8) restricts the student's circulation;
- (9) secures the student to a stationary object while the student is in a sitting or standing position;
- (10) inhibits, reduces, or hinders the student's ability to communicate;
- (11) involves the use of a chemical restraint;
- (12) constitutes a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or
- (13) except as provided by Subsection (d-2), deprives the student of the use of one or more of the student's senses.

(d-2) Authorizes an aversive technique described by Subsection (d-1)(13), notwithstanding Subsection (d-1)(13), to be used if the technique is executed in a manner that does not cause the student pain or discomfort or complies with the student's individualized education program or behavior intervention plan.

(d-3) Establishes that nothing in Subsection (d-1) or (d-2) may be construed to prohibit a teacher from removing a student from class under Section 37.002 (Removal by Teacher).

(d-4) Requires the commissioner of education, in adopting procedures under this section (Use of Confinement, Restraint, Seclusion, and Time-Out), to provide guidance to school district employees, volunteers, and independent contractors of school districts in avoiding a violation of Subsection (d-1).

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

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