

- SUBJECT:** Granting immunity from liability for school security personnel
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 5 ayes — Leach, Krause, Middleton, Schofield, Smith
- 1 nay — Julie Johnson
- 3 absent — Davis, Dutton, Moody
- WITNESSES:** For — (*Registered, but did not testify:* Colby Nichols, Texas Association of Community Schools and Texas Association of School Administrators; Mark Borskey, Texas State Rifle Association)
- Against — (*Registered, but did not testify:* Dena Donaldson, Texas AFT)
- On — (*Registered, but did not testify:* Eric Marin, Texas Education Agency)
- DIGEST:** HB 1788 would grant school districts, charter schools, or private schools, as well as the security personnel they employ, immunity from liability for any damages resulting from a reasonable action taken by security personnel to maintain the safety of a school campus, including action relating to possession or use of a firearm. "Security personnel" would be defined to include:
- a school district peace officer;
  - a school marshal;
  - a school resource officer; and
  - a retired peace officer who had been hired by a school district, open-enrollment charter school, or private school to provide security services or who volunteered to provide security services to the school.
- The bill would grant immunity to a district, charter school, or private

school for any damages resulting from a reasonable action taken by a district or school employee who had written permission from the district's board of trustees or the school's governing board to carry a firearm on campus.

The statutory immunity provided by the bill would be in addition to and would not preempt the common law doctrine of official and governmental immunity. To the extent that another statute provided greater immunity to a district, charter school, or private school than the bill, that statute would prevail.

The bill would apply beginning with the 2021-2022 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

**SUPPORTERS  
SAY:**

HB 1788 would improve school safety by providing liability protection for public and private schools that employ security personnel or authorize an employee to carry a firearm on campus. The bill would remove an impediment for schools that want to take advantage of different options under Texas law for securing their campuses. For example, some schools hire commissioned peace officers to serve as school resource officers and others appoint school employees to serve as school marshals or school guardians under statutory provisions that allow these employees to possess a firearm on school premises.

Existing provisions in Education Code sec. 22.0511 provide a professional employee of a school district with protection from personal liability for actions taken within the employee's scope of duties, except in circumstances in which the employee used excessive force in disciplining students or negligence resulting in a student being injured. The bill is designed to improve school security rather than to address student discipline issues.

**CRITICS**

HB 1788 could pose a risk to student safety by providing immunity from

SAY: liability for security personnel who might not have the appropriate training to carry a weapon in a school setting. It would give immunity from liability to individuals without requiring the degree of training most teachers and others who work with students receive in child development and the way trauma can affect students in a school environment.