AMENDMENTS TO LB529
(Amendments to Standing Committee amendments, AM495)

Introduced by Murman, 38.

1. Insert the following new sections:

   Sec. 7. (1) Beginning with school year 2022-23, administrative, teaching, and other school personnel may utilize an emergency safety intervention as provided in subsection (3) of this section.

   (2) An emergency safety intervention shall be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior; the student's chronological and developmental age, size, sex, and physical, medical, and psychiatric condition, if known; and the student's personal history, including any history of physical or sexual abuse, if known. If possible, efforts to de-escalate the situation shall occur prior to an emergency safety intervention.

   (3) An emergency safety intervention does not include any physical action that is intended to cause bodily pain or to punish a student. An emergency safety intervention shall be used only:

      (a) To protect persons from harm or secure property if such action may protect a student, school personnel, or other person from imminent serious physical injury;

      (b) To ensure the safety of the student or others during an emergency safety situation;

      (c) Until the emergency safety situation has ceased and the student's safety and the safety of others can be ensured; and

      (d) With the least amount of force necessary to protect the student or others from imminent serious physical injury.

   (4) Each school district shall adopt a policy regarding the use of an emergency safety intervention pursuant to this section that adheres to the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400
et seq., and section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794. Such policy shall include training requirements relating to the use of an emergency safety intervention. The State Department of Education shall provide a guidance document that school districts may consider when adopting such policy.

(5) Following the use of an emergency safety intervention, school personnel shall, as soon as practicable, contact the parent or guardian of the student and notify such parent or guardian of the use of an emergency safety intervention.

(6)(a) No administrative, teaching, or other school personnel shall be subject to professional or administrative discipline for harm caused by an act or omission by such administrative, teaching, or other school personnel relating to the use of an emergency safety intervention pursuant to this section unless the harm was caused by (i) gross negligence, (ii) a conscious, flagrant indifference to the rights or safety of the individual who was harmed, or (iii) willful, criminal, or reckless misconduct, including misconduct (A) that constitutes a crime of violence, as defined by 18 U.S.C. 16, as such section existed on January 1, 2021, (B) that involves a sexual offense listed in subdivision (1)(a)(i) of section 29-4003, (C) for which the administrative, teaching, or other school personnel has been found to have violated a federal or state civil rights law, or (D) that occurred while the administrative, teaching, or other school personnel was under the influence of alcoholic liquor or drugs.

(b) Nothing in this section shall be construed to limit any defense that may be available under any other provision of law, including, but not limited to, any defense relating to self-protection or the protection of others.

(7) For purposes of this section:

(a) Emergency safety intervention means physical intervention intended to hold a student immobile or limit a student's movement, where
body contact is the only source of physical restraint, and where
immobilization is used to effectively gain control of a student in order
to protect such student or other individual from physical injury as an
immediate response to an emergency safety situation. Emergency safety
intervention does not include physical contact that (i) helps a student
respond or complete a task; (ii) assists a student without restricting
the student's movement; (iii) is needed to administer an authorized
health-related service or procedure; or (iv) is needed to physically
escort a student when the student does not resist or the student's
resistance is minimal;

(b) Emergency safety situation means a situation where immediate
intervention is needed to protect a student or other individual from
physical injury. Emergency safety situation does not mean a situation
where a student does not respond to a task or request and instead places
his or her head on a desk or hides under a desk or table; a student does
not respond to a staff person's request unless failing to respond would
result in physical injury to the student or other individual; or an
emergency incident has already occurred and no threat of physical injury
currently exists;

(c) Imminent serious physical injury means serious physical injury
to a student or others occurring currently or highly likely to occur in
the immediate future as the result of the student's behavior; and

(d) Serious physical injury means death, disfigurement, or
protracted loss or impairment of the function of a bodily member or organ
of a student or others.

Sec. 8. (1) For school year 2022-23 and each school year thereafter,
each school district shall create and adopt a classroom removal policy
including training requirements. The State Department of Education shall
provide a guidance document that school districts may consider when
adopting such policy. Each classroom removal policy shall:

(a) Describe when and how a teacher may request that a school
administrator remove from a classroom a student that is engaged in disruptive behavior and when such student may be returned to the classroom;

(b) Define appropriate behavioral interventions or supports that shall be implemented to aid a student's successful return to a classroom; and

(c) Require the return to the classroom as soon as possible, when it is deemed safe and in the best interest of the student.

(2) For purposes of this section, disruptive behavior means conduct of a student that is so unruly, disruptive, or abusive that it seriously interferes with a teacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or school-related activity.

(3) Except as prohibited by the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., related federal regulations, or any applicable individualized education plan established pursuant to such federal act, or by section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, related federal regulations, or any applicable plan established pursuant to such federal act, if a teacher has requested that a school administrator remove a student from a classroom in compliance with the school district's classroom removal policy, a school administrator shall temporarily remove such student from such classroom.

(4) No school personnel shall be subject to administrative discipline for removing a student from a classroom or requesting such removal if such school personnel followed the school district's classroom removal policy.

2. On page 8, line 21, strike the second "and"; in line 31 strike the period and insert "; and"; and after line 31 insert the following new subdivision:

"(v) In addition to the preamble, training shall be provided on emergency safety intervention pursuant to section 7 of this act, on
classroom removal pursuant to section 8 of this act, and on the school
district's policies under such sections."

3. On page 9, after line 17, insert the following new subdivision:

"(b) A school district or an approved or accredited private, denominational, or parochial school may annually apply to the Educational Service Unit Coordinating Council for a grant, and the council shall award a grant not to exceed six thousand five hundred dollars for any school year, to directly provide the district's or school's own behavioral awareness and intervention training."; and in line 18 strike 

"(b)" and insert "(c)".

4. On page 70, line 27, strike "35 to 59" and insert "37 to 61".

5. Renumber the remaining sections and correct internal references accordingly.