

By: Wu

H.B. No. 1194

Substitute the following for H.B. No. 1194:

By: Dutton

C.S.H.B. No. 1194

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to requiring a school district or open-enrollment charter  
3 school to report data regarding certain disciplinary or law  
4 enforcement actions taken against students.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter C, Chapter 37, Education Code, is  
7 amended by adding Section 37.086 to read as follows:

8 Sec. 37.086. REPORT TO AGENCY ON CERTAIN DISCIPLINARY OR  
9 LAW ENFORCEMENT ACTIONS. (a) In this section:

10 (1) "Citation" means a ticket issued to a student for a  
11 Class C misdemeanor by a school district peace officer or other  
12 peace officer acting under a memorandum of understanding described  
13 by Subsection (g).

14 (2) "Conducted energy weapon" means a device that is  
15 intended, designed, made, or adapted to inflict pain on,  
16 immobilize, or incapacitate a person by delivering electrical  
17 energy into the person's body through direct contact or through one  
18 or more projectiles.

19 (3) "OC spray" means any aerosol-propelled  
20 debilitation device that is composed of a lachrymatory chemical  
21 compound that irritates the eyes to cause tears, pain, or temporary  
22 blindness. The term includes pepper spray, capsicum spray, OC gas,  
23 and oleoresin capsicum.

24 (4) "Restraint" means the use of physical force or a

1 mechanical device to significantly restrict the free movement of  
2 all or a portion of a student's body. The term includes the use of:

3 (A) a baton or a similar club;

4 (B) OC spray; and

5 (C) a conducted energy weapon.

6 (b) Not later than the 60th day after the last day of classes  
7 for the school year, the superintendent of a school district shall  
8 electronically submit to the agency a report that contains  
9 incident-based data describing the total number of the following  
10 incidents occurring during the preceding school year, organized by  
11 campus:

12 (1) the sending of a student to the campus behavior  
13 coordinator's or other administrator's office or removal of a  
14 student from class under Section 37.002;

15 (2) restraints administered to a student;

16 (3) complaints filed against a student under Section  
17 37.145; and

18 (4) the following incidents occurring on school  
19 property that result from a district employee's request for  
20 intervention by a law enforcement agency, district peace officer,  
21 or school resource officer:

22 (A) citations issued to a student; and

23 (B) arrests made of a student.

24 (c) The incident-based data submitted under this section  
25 must include:

26 (1) as applicable, information identifying:

27 (A) the age of the student;

- 1                   (B) the gender of the student;  
2                   (C) the race or ethnicity of the student;  
3                   (D) whether the student is eligible for special  
4 education services under Section 29.003;  
5                   (E) whether the student is a student of limited  
6 English proficiency, as defined by Section 29.052;  
7                   (F) whether the student is in the conservatorship  
8 of the Department of Family and Protective Services;  
9                   (G) whether the student is homeless, as defined  
10 by 42 U.S.C. Section 11302;  
11                   (H) the nature of the offense;  
12                   (I) whether the offense occurred during regular  
13 school hours;  
14                   (J) whether the offense occurred on school  
15 property or off school property while the student was attending a  
16 school-sponsored or school-related activity;  
17                   (K) the type of restraint administered to the  
18 student;  
19                   (L) the offense for which a complaint was filed  
20 against the student or for which the student was issued a citation  
21 or was arrested;  
22                   (M) for incidents described by Subsection  
23 (b)(1), the name of a teacher who took such a disciplinary action  
24 more than twice during the applicable school year; and  
25                   (N) the campus at which the student was enrolled  
26 at the time of the incident; and  
27                   (2) for each campus for which an incident described by

1 Subsection (b) is reported, a comparison of the demographics of  
2 students who were the subject of such an incident to the  
3 demographics of the campus's student body, disaggregated by each  
4 student group described by Subdivision (1)(A), (B), (C), (D), (E),  
5 (F), or (G).

6 (d) The data collected for a report required under this  
7 section does not constitute prima facie evidence of racial  
8 profiling.

9 (e) A report required under this section may not include  
10 information that identifies the peace officer who issued a  
11 citation. The identity of the peace officer is confidential and not  
12 subject to disclosure under Chapter 552, Government Code.

13 (f) A report required under this section may not include  
14 personally identifiable student information and must comply with  
15 the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.  
16 Section 1232g).

17 (g) A school district that enters into a memorandum of  
18 understanding with a local law enforcement agency for the provision  
19 of a regular police presence on campus shall designate in the  
20 memorandum of understanding which entity will be responsible for  
21 collecting the data described by Subsection (b).

22 (h) The agency shall collect the reports required under this  
23 section, compile the data, and make the data available to the  
24 public. The data must be disaggregated by school district to the  
25 extent possible while protecting the confidentiality of student  
26 information in accordance with Subsection (f).

27 (i) The commissioner shall adopt rules as necessary to

1 implement this section, including rules requiring the reporting of  
2 incident-based data using existing Public Education Information  
3 Management System (PEIMS) codes for the reporting of incidents  
4 described by Subsection (b).

5 SECTION 2. Section 12.104(b), Education Code, as amended by  
6 Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943  
7 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is  
8 reenacted and amended to read as follows:

9 (b) An open-enrollment charter school is subject to:

10 (1) a provision of this title establishing a criminal  
11 offense;

12 (2) the provisions in Chapter 554, Government Code;  
13 and

14 (3) a prohibition, restriction, or requirement, as  
15 applicable, imposed by this title or a rule adopted under this  
16 title, relating to:

17 (A) the Public Education Information Management  
18 System (PEIMS) to the extent necessary to monitor compliance with  
19 this subchapter as determined by the commissioner;

20 (B) criminal history records under Subchapter C,  
21 Chapter 22;

22 (C) reading instruments and accelerated reading  
23 instruction programs under Section 28.006;

24 (D) accelerated instruction under Section  
25 28.0211;

26 (E) high school graduation requirements under  
27 Section 28.025;

- 1 (F) special education programs under Subchapter  
2 [A](#), Chapter [29](#);
- 3 (G) bilingual education under Subchapter [B](#),  
4 Chapter [29](#);
- 5 (H) prekindergarten programs under Subchapter E  
6 or E-1, Chapter [29](#);
- 7 (I) extracurricular activities under Section  
8 [33.081](#);
- 9 (J) discipline management practices or behavior  
10 management techniques under Section [37.0021](#);
- 11 (K) health and safety under Chapter [38](#);
- 12 (L) public school accountability under  
13 Subchapters [B](#), [C](#), [D](#), [F](#), [G](#), and [J](#), Chapter [39](#), and Chapter [39A](#);
- 14 (M) the requirement under Section [21.006](#) to  
15 report an educator's misconduct;
- 16 (N) intensive programs of instruction under  
17 Section [28.0213](#);
- 18 (O) the right of a school employee to report a  
19 crime, as provided by Section [37.148](#);
- 20 (P) bullying prevention policies and procedures  
21 under Section [37.0832](#);
- 22 (Q) the right of a school under Section [37.0052](#)  
23 to place a student who has engaged in certain bullying behavior in a  
24 disciplinary alternative education program or to expel the student;
- 25 (R) the right under Section [37.0151](#) to report to  
26 local law enforcement certain conduct constituting assault or  
27 harassment;

1 (S) a parent's right to information regarding the  
2 provision of assistance for learning difficulties to the parent's  
3 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

4 (T) establishment of residency under Section  
5 25.001;

6 (U) [~~(T)~~] school safety requirements under  
7 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,  
8 37.207, and 37.2071;

9 (V) [~~(T)~~] the early childhood literacy and  
10 mathematics proficiency plans under Section 11.185; [~~and~~]

11 (W) [~~(U)~~] the college, career, and military  
12 readiness plans under Section 11.186; and

13 (X) the reporting of information regarding  
14 certain disciplinary or law enforcement actions under Section  
15 37.086.

16 SECTION 3. This Act applies beginning with the 2021-2022  
17 school year.

18 SECTION 4. To the extent of any conflict, this Act prevails  
19 over another Act of the 87th Legislature, Regular Session, 2021,  
20 relating to nonsubstantive additions to and corrections in enacted  
21 codes.

22 SECTION 5. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2021.