

By: Wu, Allen, Hull

H.B. No. 516

Substitute the following for H.B. No. 516:

By: A. Johnson of Harris

C.S.H.B. No. 516

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 37.088 to read as follows:

8 Sec. 37.088. 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 an emergent bilingual  
6 student, 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; and  
22                   (M) the campus at which the student was enrolled  
23 at the time of the incident; and  
24                   (2) for each campus for which an incident described by  
25 Subsection (b) is reported, a comparison of the demographics of  
26 students who were the subject of such an incident to the  
27 demographics of the campus's student body, disaggregated by each

1 student group described by Subdivision (1)(A), (B), (C), (D), (E),  
2 (F), or (G).

3 (d) The data collected for a report required under this  
4 section does not constitute prima facie evidence of racial  
5 profiling.

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

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

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

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

24 (i) The commissioner shall adopt rules as necessary to  
25 implement this section, including rules requiring the reporting of  
26 incident-based data using existing Public Education Information  
27 Management System (PEIMS) codes for the reporting of incidents

1 described by Subsection (b).

2 SECTION 2. Section 12.104(b), Education Code, as amended by  
3 Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.  
4 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular  
5 Session, 2021, is reenacted and amended to read as follows:

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

7 (1) a provision of this title establishing a criminal  
8 offense;

9 (2) the provisions in Chapter 554, Government Code;  
10 and

11 (3) a prohibition, restriction, or requirement, as  
12 applicable, imposed by this title or a rule adopted under this  
13 title, relating to:

14 (A) the Public Education Information Management  
15 System (PEIMS) to the extent necessary to monitor compliance with  
16 this subchapter as determined by the commissioner;

17 (B) criminal history records under Subchapter C,  
18 Chapter 22;

19 (C) reading instruments and accelerated reading  
20 instruction programs under Section 28.006;

21 (D) accelerated instruction under Section  
22 28.0211;

23 (E) high school graduation requirements under  
24 Section 28.025;

25 (F) special education programs under Subchapter  
26 A, Chapter 29;

27 (G) bilingual education under Subchapter B,

1 Chapter 29;

2 (H) prekindergarten programs under Subchapter E  
3 or E-1, Chapter 29, except class size limits for prekindergarten  
4 classes imposed under Section 25.112, which do not apply;

5 (I) extracurricular activities under Section  
6 33.081;

7 (J) discipline management practices or behavior  
8 management techniques under Section 37.0021;

9 (K) health and safety under Chapter 38;

10 (L) the provisions of Subchapter A, Chapter 39;

11 (M) public school accountability and special  
12 investigations under Subchapters A, B, C, D, F, G, and J, Chapter  
13 39, and Chapter 39A;

14 (N) the requirement under Section 21.006 to  
15 report an educator's misconduct;

16 (O) intensive programs of instruction under  
17 Section 28.0213;

18 (P) the right of a school employee to report a  
19 crime, as provided by Section 37.148;

20 (Q) bullying prevention policies and procedures  
21 under Section 37.0832;

22 (R) 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 (S) the right under Section 37.0151 to report to  
26 local law enforcement certain conduct constituting assault or  
27 harassment;

1 (T) 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 (U) establishment of residency under Section  
5 25.001;

6 (V) school safety requirements under Sections  
7 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,  
8 37.207, and 37.2071;

9 (W) the early childhood literacy and mathematics  
10 proficiency plans under Section 11.185;

11 (X) the college, career, and military readiness  
12 plans under Section 11.186; ~~and~~

13 (Y) ~~(X)~~ parental options to retain a student  
14 under Section 28.02124; and

15 (Z) the reporting of information regarding  
16 certain disciplinary or law enforcement actions under Section  
17 37.088.

18 SECTION 3. This Act applies beginning with the 2023-2024  
19 school year.

20 SECTION 4. To the extent of any conflict, this Act prevails  
21 over another Act of the 88th Legislature, Regular Session, 2023,  
22 relating to nonsubstantive additions to and corrections in enacted  
23 codes.

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

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1 Act takes effect September 1, 2023.