

By: Wu

H.B. No. 516

A BILL TO BE ENTITLED

AN ACT

relating to requiring a school district or open-enrollment charter school to report data regarding certain disciplinary or law enforcement actions taken against students.

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

SECTION 1. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.088 to read as follows:

Sec. 37.088. REPORT TO AGENCY ON CERTAIN DISCIPLINARY OR LAW ENFORCEMENT ACTIONS. (a) In this section:

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

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

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

(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;
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 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.
7 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular
8 Session, 2021, is 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, except class size limits for prekindergarten
7 classes imposed under Section 25.112, which do not apply;
- 8 (I) extracurricular activities under Section
9 33.081;
- 10 (J) discipline management practices or behavior
11 management techniques under Section 37.0021;
- 12 (K) health and safety under Chapter 38;
- 13 (L) the provisions of Subchapter A, Chapter 39;
- 14 (M) public school accountability and special
15 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
16 39, and Chapter 39A;
- 17 (N) the requirement under Section 21.006 to
18 report an educator's misconduct;
- 19 (O) intensive programs of instruction under
20 Section 28.0213;
- 21 (P) the right of a school employee to report a
22 crime, as provided by Section 37.148;
- 23 (Q) bullying prevention policies and procedures
24 under Section 37.0832;
- 25 (R) the right of a school under Section 37.0052
26 to place a student who has engaged in certain bullying behavior in a
27 disciplinary alternative education program or to expel the student;

1 (S) the right under Section 37.0151 to report to
2 local law enforcement certain conduct constituting assault or
3 harassment;

4 (T) a parent's right to information regarding the
5 provision of assistance for learning difficulties to the parent's
6 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

7 (U) establishment of residency under Section
8 25.001;

9 (V) school safety requirements under Sections
10 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
11 37.207, and 37.2071;

12 (W) the early childhood literacy and mathematics
13 proficiency plans under Section 11.185;

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

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

18 (Z) the reporting of information regarding
19 certain disciplinary or law enforcement actions under Section
20 37.088.

21 SECTION 3. This Act applies beginning with the 2023-2024
22 school year.

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

27 SECTION 5. This Act takes effect immediately if it receives

H.B. No. 516

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2023.