

By: Toth

H.B. No. 1541

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to parental rights in public education and prohibiting  
3 certain instruction regarding sexual orientation or gender  
4 identity; authorizing a civil penalty.

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

6 SECTION 1. Subchapter [Z](#), Chapter [22](#), Education Code, is  
7 amended by adding Section 22.903 to read as follows:

8 Sec. 22.903. PROHIBITION ON RENEWAL OF EMPLOYMENT CONTRACT  
9 FOR CERTAIN MISCONDUCT. A school district may not renew the  
10 employment contract for an individual who:

11 (1) prevents a parent from accessing written records  
12 concerning the parent's child in violation of Chapter [26](#); or

13 (2) discourages or prevents parental notification  
14 regarding a student's mental, emotional, or physical health or  
15 well-being in violation of Section 26.0083.

16 SECTION 2. Chapter [26](#), Education Code, is amended by adding  
17 Section 26.0083 to read as follows:

18 Sec. 26.0083. RIGHT TO INFORMATION REGARDING MENTAL,  
19 EMOTIONAL, AND PHYSICAL HEALTH; CIVIL ENFORCEMENT. (a) Each  
20 school district shall adopt a procedure for notifying the parent of  
21 a student enrolled in the district regarding any change in:

22 (1) services provided to or monitoring of the student  
23 related to the student's mental, emotional, or physical health or  
24 well-being; or

1           (2) the district's ability to provide a safe and  
2 supportive learning environment for the student.

3           (b) A procedure adopted under Subsection (a) must reinforce  
4 the fundamental right of a parent to make decisions regarding the  
5 upbringing and control of the parent's child by requiring school  
6 district personnel to:

7           (1) encourage a student to discuss issues relating to  
8 the student's well-being with the student's parent; or

9           (2) facilitate a discussion described under  
10 Subdivision (1).

11           (c) A school district may not adopt a procedure or a student  
12 support form, including a student well-being questionnaire or  
13 health screening form, that:

14           (1) prohibits a district employee from notifying the  
15 parent of a student regarding:

16                   (A) information about the student's mental,  
17 emotional, or physical health or well-being; or

18                   (B) a change in services provided to or  
19 monitoring of the student related to the student's mental,  
20 emotional, or physical health or well-being; or

21           (2) encourages or has the effect of encouraging a  
22 student to withhold from the student's parent information described  
23 by Subdivision (1)(A).

24           (d) Subsections (b) and (c) do not require the disclosure of  
25 information to a parent if a reasonably prudent person would  
26 believe the disclosure is likely to result in the student suffering  
27 abuse or neglect, as those terms are defined by Section 261.001,

1 Family Code.

2 (e) A school district employee may not discourage or  
3 prohibit parental knowledge of or involvement in critical decisions  
4 affecting a student's mental, emotional, or physical health or  
5 well-being.

6 (f) Any student support services training developed or  
7 provided by a school district to district employees must comply  
8 with any student services guidelines, standards, and frameworks  
9 established by the State Board of Education and the agency.

10 (g) A parent alleging a violation of this section may bring  
11 a civil action to obtain appropriate injunctive relief and  
12 declaratory relief. A court may award damages and shall award  
13 reasonable attorney's fees and court costs to a prevailing parent.

14 (h) A school district whose employee violates this section  
15 is liable to the state for a civil penalty in an amount not to exceed  
16 \$10,000 for each violation. The attorney general may investigate  
17 any alleged violation of this section and may sue to collect the  
18 civil penalty described by this subsection.

19 (i) A suit or petition under Subsection (h) may be filed in a  
20 district court in:

21 (1) Travis County; or

22 (2) a county in which the principal office of the  
23 school district is located.

24 (j) The attorney general may recover reasonable expenses  
25 incurred in obtaining relief under this section, including court  
26 costs, reasonable attorney's fees, investigative costs, witness  
27 fees, and deposition costs.

1       (k) Sovereign immunity to suit is waived and abolished to  
2 the extent of liability created by this section.

3       (l) This section may not be construed to limit or alter the  
4 requirements of Section 38.004 of this code or Chapter 261, Family  
5 Code.

6       (m) As soon as practicable after the effective date of this  
7 Act, the agency, the State Board of Education, and the State Board  
8 for Educator Certification, as appropriate, shall review and revise  
9 as necessary the following to ensure compliance with this section:

10           (1) school counseling frameworks and standards;

11           (2) educator practices and professional conduct  
12 principles; and

13           (3) any other student services personnel guidelines,  
14 standards, or frameworks.

15       (n) Subsection (m) and this subsection expire September 1,  
16 2025.

17       SECTION 3. Subchapter A, Chapter 28, Education Code, is  
18 amended by adding Section 28.0043 to read as follows:

19       Sec. 28.0043. RESTRICTION ON INSTRUCTION REGARDING SEXUAL  
20 ORIENTATION AND GENDER IDENTITY. (a) In this section,  
21 "age-appropriate" means suitable for particular ages or age groups  
22 of children or adolescents of the same chronological age or level of  
23 maturity, based on the development of cognitive, emotional,  
24 physical, and behavioral capacity that is typical for the age or age  
25 group.

26       (b) A school district, open-enrollment charter school, or  
27 district or charter school employee may not provide or allow a third

1 party to provide instruction regarding sexual orientation or gender  
2 identity:

3 (1) to students enrolled in prekindergarten through  
4 eighth grade; or

5 (2) in a manner that is not age-appropriate or  
6 developmentally appropriate.

7 SECTION 4. Section 12.104(b), Education Code, as amended by  
8 Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.  
9 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular  
10 Session, 2021, is reenacted and amended to read as follows:

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

12 (1) a provision of this title establishing a criminal  
13 offense;

14 (2) the provisions in Chapter 554, Government Code;  
15 and

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

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

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

24 (C) reading instruments and accelerated reading  
25 instruction programs under Section 28.006;

26 (D) accelerated instruction under Section  
27 28.0211;

- 1 (E) high school graduation requirements under  
2 Section 28.025;
- 3 (F) special education programs under Subchapter  
4 A, Chapter 29;
- 5 (G) bilingual education under Subchapter B,  
6 Chapter 29;
- 7 (H) prekindergarten programs under Subchapter E  
8 or E-1, Chapter 29, except class size limits for prekindergarten  
9 classes imposed under Section 25.112, which do not apply;
- 10 (I) extracurricular activities under Section  
11 33.081;
- 12 (J) discipline management practices or behavior  
13 management techniques under Section 37.0021;
- 14 (K) health and safety under Chapter 38;
- 15 (L) the provisions of Subchapter A, Chapter 39;
- 16 (M) public school accountability and special  
17 investigations under Subchapters A, B, C, D, F, G, and J, Chapter  
18 39, and Chapter 39A;
- 19 (N) the requirement under Section 21.006 to  
20 report an educator's misconduct;
- 21 (O) intensive programs of instruction under  
22 Section 28.0213;
- 23 (P) the right of a school employee to report a  
24 crime, as provided by Section 37.148;
- 25 (Q) bullying prevention policies and procedures  
26 under Section 37.0832;
- 27 (R) the right of a school under Section 37.0052

1 to place a student who has engaged in certain bullying behavior in a  
2 disciplinary alternative education program or to expel the student;

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

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

9 (U) establishment of residency under Section  
10 25.001;

11 (V) school safety requirements under Sections  
12 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,  
13 37.207, and 37.2071;

14 (W) the early childhood literacy and mathematics  
15 proficiency plans under Section 11.185;

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

18 (Y) ~~(X)~~ parental options to retain a student  
19 under Section 28.02124;

20 (Z) parental rights to information regarding a  
21 student's mental, emotional, and physical health offered by the  
22 school as provided by Section 26.0083, including the authorization  
23 of a civil suit and a civil penalty under that section; and

24 (AA) the renewal of the employment contract of an  
25 employee who violates certain parental rights as provided by  
26 Section 22.903.

27 SECTION 5. This Act applies beginning with the 2023-2024

1 school year.

2           SECTION 6. To the extent of any conflict, this Act prevails  
3 over another Act of the 88th Legislature, Regular Session, 2023,  
4 relating to nonsubstantive additions to and corrections in enacted  
5 codes.

6           SECTION 7. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2023.