

By: Bucy, Allen, Garcia

H.B. No. 3867

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to requirements regarding certain behavior management for  
3 a student enrolled in a special education program of a public school  
4 and related reporting requirements regarding the use of restraint.

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

6 SECTION 1. Section [37.0021](#), Education Code, is amended by  
7 amending Subsection (d) and adding Subsection (d-1) to read as  
8 follows:

9 (d) The commissioner by rule shall adopt procedures for the  
10 use of restraint and time-out by a school district employee or  
11 volunteer or an independent contractor of a district in the case of  
12 a student with a disability receiving special education services  
13 under Subchapter [A](#), Chapter [29](#). A procedure adopted under this  
14 subsection must:

15 (1) be consistent with:

16 (A) professionally accepted practices and  
17 standards of student discipline and techniques for behavior  
18 management; and

19 (B) relevant health and safety standards;

20 (2) identify any discipline management practice or  
21 behavior management technique that requires a district employee or  
22 volunteer or an independent contractor of a district to be trained  
23 before using that practice or technique; and

24 (3) require a school district to:

1 (A) provide written notification to the  
2 student's parent or person standing in parental relation to the  
3 student for each use of restraint that includes:

4 (i) the name of the student;

5 (ii) the name of the district employee or  
6 volunteer or independent contractor of the district who  
7 administered the restraint;

8 (iii) the date of the restraint;

9 (iv) the time that the restraint started  
10 and ended;

11 (v) the location of the restraint;

12 (vi) the nature of the restraint;

13 (vii) a description of the activity in  
14 which the student was engaged immediately preceding the use of the  
15 restraint;

16 (viii) the behavior of the student that  
17 prompted the restraint;

18 (ix) any efforts made to de-escalate the  
19 situation and any alternatives to restraint that were attempted;

20 (x) if the student has a behavior  
21 improvement plan or a behavioral intervention plan, whether the  
22 plan may need to be revised as a result of the behavior that led to  
23 the restraint; ~~and~~

24 (xi) if the student does not have a behavior  
25 improvement plan or a behavioral intervention plan, information on  
26 the procedure for the student's parent or person standing in  
27 parental relation to the student to request an admission, review,

1 and dismissal committee meeting to discuss the possibility of  
2 conducting a functional behavioral assessment of the student and  
3 developing a plan for the student; and

4 (xii) whether a mental and physical health  
5 screening was conducted within a reasonable amount of time after  
6 the incident by appropriate school officials, including a nurse or  
7 school counselor, and the results of the screening;

8 (B) include in a student's special education  
9 eligibility school records:

10 (i) a copy of the written notification  
11 provided to the student's parent or person standing in parental  
12 relation to the student under Paragraph (A);

13 (ii) information on the method by which the  
14 written notification was sent to the parent or person; ~~and~~

15 (iii) the contact information for the  
16 parent or person to whom the district sent the notification; and

17 (iv) a copy of the mental and physical  
18 health screening and the results of the screening; and

19 (C) if the student has a behavior improvement  
20 plan or behavioral intervention plan, document each use of time-out  
21 prompted by a behavior of the student specified in the student's  
22 plan, including a description of the behavior that prompted the  
23 time-out.

24 (d-1) A procedure adopted by the commissioner under  
25 Subsection (d) must require a school district after an incident of  
26 the use of restraint to conduct an overall health assessment, only  
27 if the district first obtains the written consent of the student's

1 parent or person standing in parental relation to the student for  
2 the assessment, for the purpose of assessing the student's holistic  
3 well-being that:

4 (1) includes evidence-based assessments, as  
5 determined by the commissioner, for a:

6 (A) mental health screening performed by a school  
7 counselor, school psychologist, or similarly qualified district  
8 professional; and

9 (B) physical health screening performed by a  
10 school nurse or similarly qualified district professional; and

11 (2) is performed within a reasonable amount of time  
12 after the incident, as determined by the commissioner.

13 SECTION 2. Subchapter A, Chapter 37, Education Code, is  
14 amended by adding Section 37.024 to read as follows:

15 Sec. 37.024. REQUIRED PEIMS REPORTING OF RESTRAINT; REPORT.

16 (a) Each school district and open-enrollment charter school shall  
17 include in the district's or school's Public Education Information  
18 Management System (PEIMS) report the total number, disaggregated by  
19 ethnicity, gender, status as receiving special education services,  
20 and status as being in the conservatorship of the Department of  
21 Family and Protective Services, of incidents of uses of restraint,  
22 as defined by Section 37.0021.

23 (b) The agency shall:

24 (1) aggregate the data required under Subsection (a)  
25 by state, region, district or school, and campus in an annual report  
26 that is readily understandable;

27 (2) make the report publicly available on the agency's

1 Internet website; and

2 (3) provide the report to each school district and  
3 open-enrollment charter school.

4 SECTION 3. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2023.