

By: Bucy

H.B. No. 3867

Substitute the following for H.B. No. 3867:

By: Thompson of Harris

C.S.H.B. No. 3867

A BILL TO BE ENTITLED

1 AN ACT

2 relating to requirements regarding certain behavior management for
3 a student enrolled in a special education program of a public
4 school.

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 for the
27 purpose of assessing the student's holistic well-being that:

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

3 (A) mental health screening performed by a school
4 counselor, school psychologist, or similarly qualified district
5 professional; and

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

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

10 SECTION 2. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2023.