

By: Bucy

H.B. No. 3867

A BILL TO BE ENTITLED

AN ACT

relating to notification and documentation requirements regarding certain behavior management for a student enrolled in a special education program of a public school.

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

SECTION 1. Section 37.0021(d), Education Code, is amended to read as follows:

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

(1) be consistent with:

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

(B) relevant health and safety standards;

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

(3) require a school district to:

(A) provide written notification to the

1 student's parent or person standing in parental relation to the  
2 student for each use of restraint that includes:

3 (i) the name of the student;

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

7 (iii) the date of the restraint;

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

10 (v) the location of the restraint;

11 (vi) the nature of the restraint;

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

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

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

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

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

1 conducting a functional behavioral assessment of the student and  
2 developing a plan for the student; and

3 (xii) whether a mental and physical health  
4 screening was conducted by appropriate school officials, including  
5 a nurse or school counselor, and the results of the screening;

6 (B) conduct a mental health screening performed  
7 by the school counselor and a physical health screening performed  
8 by the school nurse with the goal of assessing the wellbeing of the  
9 student after each incident of restraint; and

10 ~~(B)~~(C) include in a student's special education  
11 eligibility school records:

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

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

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

19 (iv) a copy of the mental and physical  
20 health screening and the results of the screening; and

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

26 SECTION 2. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 3867

1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2023.