

BILL ANALYSIS

Senate Research Center
82R21648 PAM-F

C.S.S.B. 536
By: Davis
Education
4/12/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Section 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), Education Code, provides that it is the policy of the state to treat with dignity and respect all students, including students with disabilities who receive special education services. As a result, any school employee, volunteer, or independent contractor may use restraint only in an emergency and must implement the restraint in a way that ensures the protection and safety of the student and others.

Additionally, rules adopted pursuant to Section 37.0021, Education Code, require training, documentation, and reporting of the use of restraint in schools. Reporting is an essential part of the current rule, because it leads to improved training for school personnel and better supports and services for students and teachers. However, confusion exists as to whether the reporting requirements apply to school peace officers, and the application varies if the school police officer is employed by the school or by the local law enforcement agency.

Section 37.0021(g)(1), Education Code, currently provides that the requirements do not apply to a peace officer performing law enforcement duties. The original intent was to differentiate between a campus-based peace officer who is routinely part of a student's school-based team, and a peace officer acting as a peace officer while on campus. However, current law does not define law enforcement duties.

C.S.S.B. 536 amends current law relating to the use of certain disciplinary management practices or behavior management techniques by peace officers employed or commissioned by school districts.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 2 (Section 37.0021, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 37.0021(b), Education Code, by adding Subdivision (4) to define "law enforcement duties."

SECTION 2. Amends Section 37.0021, Education Code, by amending Subsection (g) and adding Subsections (h) and (i), as follows:

(g) Provides that this section and any rules or procedures adopted under this section do not apply to certain persons, including a peace officer performing law enforcement duties, except as provided by Subsection (i), rather than a peace officer while performing law enforcement duties.

(h) Provides that this section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

(1) is employed or commissioned by a school district; or

(2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

(i) Requires a school district to report electronically to the Texas Education Agency information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity, in accordance with standards provided by commissioner of education (commissioner) rule. Requires that a report submitted under this subsection be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

SECTION 3. Requires the commissioner to adopt rules as provided by Section 37.0021(i), Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 4. Effective date: September 1, 2011.