

By: Peña, Dutton, White of Tyler, Hughes

H.B. No. 3341

Substitute the following for H.B. No. 3341:

By: Dutton

C.S.H.B. No. 3341

A BILL TO BE ENTITLED

AN ACT

relating to a requirement that school district superintendents report information relating to the use of restraints against students and student arrests; creating a criminal offense.

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

SECTION 1. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.0815 to read as follows:

Sec. 37.0815. REPORT TO AGENCY ON USES OF RESTRAINTS AGAINST AND ARRESTS OF STUDENTS. (a) In this section:

(1) "OC spray" means any aerosol-propelled debilitation device that is composed of a lachrymatory chemical compound that irritates the eyes to cause tears, pain, or temporary blindness. The term includes pepper spray, capsicum spray, OC gas, and oleoresin capsicum.

(2) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body. The term includes the use of:

(A) a baton or a similar club;

(B) OC spray; and

(C) a Taser.

(3) "Taser" means a device manufactured, sold, or distributed by Taser International, Incorporated, that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emission of a

1 projectile or conductive stream. The term, for purposes of this
2 section, includes a similar device manufactured, sold, or
3 distributed by another person.

4 (b) The superintendent of a school district shall notify a
5 student's parent or guardian as soon as practicable after the
6 student is subjected to a restraint or arrested on school property
7 or during a school-sponsored or school-related activity. The
8 notice must include information identifying:

9 (1) the nature of the incident underlying the use of
10 the restraint or the arrest;

11 (2) whether the underlying incident occurred during
12 regular school hours;

13 (3) whether the underlying incident occurred on school
14 property or off school property;

15 (4) the type of restraint administered to the student
16 or the offense for which the student was arrested, as applicable;
17 and

18 (5) the name of the person who administered the
19 restraint to or arrested the student and whether that person is a
20 peace officer who:

21 (A) is employed or commissioned by the district;
22 or

23 (B) provides, as a school resource officer, a
24 regular police presence on a campus in the district under a
25 memorandum of understanding between the district and a local law
26 enforcement agency.

27 (c) After the last day of classes each school year and not

1 later than the date specified by commissioner rule, the
2 superintendent of a school district shall submit to the agency a
3 report that contains information on the uses of restraints against
4 and arrests of students that occurred during the preceding school
5 year, organized by campus. The report must include, as applicable,
6 information identifying:

7 (1) the age of the student;

8 (2) the gender of the student;

9 (3) the race or ethnicity of the student;

10 (4) whether the student is eligible for special
11 education services under Section 29.003;

12 (5) whether the student is a student of limited
13 English proficiency, as defined by Section 29.052;

14 (6) the nature of the incident underlying the use of
15 the restraint or the arrest;

16 (7) whether the underlying incident occurred during
17 regular school hours;

18 (8) whether the underlying incident occurred on school
19 property or off school property while the student was attending a
20 school-sponsored or school-related activity;

21 (9) the type of restraint administered to the student;

22 (10) the offense for which the student was arrested;

23 and

24 (11) if known by the superintendent, any injuries
25 caused to the student during the underlying incident.

26 (d) A report required under Subsection (c) may not include
27 personally identifiable student information and must comply with

1 the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
2 Section 1232g).

3 (e) A school district that enters into a memorandum of
4 understanding with a local law enforcement agency for the provision
5 of a regular police presence on campus shall designate in the
6 memorandum of understanding which entity will be responsible for
7 collecting the information described by Subsection (c).

8 (f) A superintendent who knowingly fails to provide notice
9 or submit a report required by this section commits an offense. An
10 offense under this subsection is a Class A misdemeanor.

11 (g) The agency shall collect the reports required under this
12 section, compile the information, and make the information
13 available to the public.

14 SECTION 2. Section 37.0815, Education Code, as added by
15 this Act, applies beginning with the 2015-2016 school year.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2015.