86R27585 KJE-F

By:  Allen, Wu H.B. No. 875

Substitute the following for H.B. No. 875:

By:  Bernal C.S.H.B. No. 875

A BILL TO BE ENTITLED

AN ACT

relating to requiring a school district or open-enrollment charter school to report data regarding restraints administered to, complaints filed against, citations issued to, and arrests made of students.

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

SECTION 1.  Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.087 to read as follows:

Sec. 37.087.  REPORT TO AGENCY ON RESTRAINTS, COMPLAINTS, CITATIONS, AND ARRESTS. (a) In this section:

(1)  "Citation" means a ticket issued to a student for a Class C misdemeanor by a school district peace officer or other peace officer acting under a memorandum of understanding described by Subsection (g).

(2)  "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.

(3)  "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.

(4)  "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 projectile or conductive stream. The term, for purposes of this section, includes a similar device manufactured, sold, or distributed by another person.

(b)  Not later than the 60th day after the last day of classes for the academic year, the superintendent of a school district shall electronically submit to the agency a report that contains incident-based data describing the total number of the following incidents occurring during the preceding academic year, organized by campus:

(1)  restraints administered to a student;

(2)  complaints filed against a student under Section 37.145;

(3)  citations issued to a student; and

(4)  arrests made of a student.

(c)  The incident-based data submitted under this section must include, as applicable, information identifying:

(1)  the age of the student;

(2)  the gender of the student;

(3)  the race or ethnicity of the student;

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

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

(6)  whether the student is in the conservatorship of the Department of Family and Protective Services;

(7)  whether the student is homeless, as defined by 42 U.S.C. Section 11302;

(8)  the nature of the offense;

(9)  whether the offense occurred during regular school hours;

(10)  whether the offense occurred on school property or off school property while the student was attending a school-sponsored or school-related activity;

(11)  the type of restraint administered to the student;

(12)  the offense for which a complaint was filed against the student or for which the student was issued a citation or was arrested; and

(13)  the campus at which the student was enrolled at the time of the incident.

(d)  The data collected for a report required under this section does not constitute prima facie evidence of racial profiling.

(e)  A report required under this section may not include information that identifies the peace officer who issued a citation. The identity of the peace officer is confidential and not subject to disclosure under Chapter 552, Government Code.

(f)  A report required under this section may not include personally identifiable student information and must comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(g)  A school district that enters into a memorandum of understanding with a local law enforcement agency for the provision of a regular police presence on campus shall designate in the memorandum of understanding which entity will be responsible for collecting the data described by Subsection (b).

(h)  The agency shall collect the reports required under this section, compile the data, and make the data available to the public.

SECTION 2.  Section 12.104(b), Education Code, as amended by Chapters 324 (S.B. 1488), 522 (S.B. 179), and 735 (S.B. 1153), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(b)  An open-enrollment charter school is subject to:

(1)  a provision of this title establishing a criminal offense; and

(2)  a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A)  the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B)  criminal history records under Subchapter C, Chapter 22;

(C)  reading instruments and accelerated reading instruction programs under Section 28.006;

(D)  accelerated instruction under Section 28.0211;

(E)  high school graduation requirements under Section 28.025;

(F)  special education programs under Subchapter A, Chapter 29;

(G)  bilingual education under Subchapter B, Chapter 29;

(H)  prekindergarten programs under Subchapter E or E-1, Chapter 29;

(I)  extracurricular activities under Section 33.081;

(J)  discipline management practices or behavior management techniques under Section 37.0021;

(K)  health and safety under Chapter 38;

(L)  public school accountability under Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;

(M)  the requirement under Section 21.006 to report an educator's misconduct;

(N)  intensive programs of instruction under Section 28.0213;

(O)  the right of a school employee to report a crime, as provided by Section 37.148; [~~and~~]

(P)  bullying prevention policies and procedures under Section 37.0832;

(Q)  the right of a school under Section 37.0052 to place a student who has engaged in certain bullying behavior in a disciplinary alternative education program or to expel the student; [~~and~~]

(R)  the right under Section 37.0151 to report to local law enforcement certain conduct constituting assault or harassment;

(S) [~~(P)~~]  a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d); and

(T)  the reporting of certain information regarding restraints, complaints, citations, and arrests under Section 37.087.

SECTION 3.  This Act applies beginning with the 2019-2020 school year.

SECTION 4.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.