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H.B. No. 18

A BILL TO BE ENTITLED

1 AN ACT
2 relating to consideration of the mental health of public school
3 students in training requirements for certain school employees,
4 curriculum requirements, counseling programs, educational
5 programs, state and regional programs and services, and health care
6 services for students and to mental health first aid program
7 training and reporting regarding local mental health authority and
8 school district personnel.

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

10 ARTICLE 1. MENTAL HEALTH OF STUDENTS IN PUBLIC SCHOOLS

11 SECTION 1.01. Section 5.001, Education Code, is amended by
12 amending Subdivision (5-a) and adding Subdivision (9) to read as
13 follows:

14 (5-a) "Mental health condition" means a persistent or
15 recurrent pattern of thoughts, feelings, or behaviors [~~an illness,~~
16 ~~disease, or disorder, other than epilepsy, dementia, substance~~
17 ~~abuse, or intellectual disability,~~] that:

18 (A) constitutes a mental illness, disease, or
19 disorder, other than or in addition to epilepsy, substance abuse,
20 or an intellectual disability; or

21 (B) [~~substantially~~] impairs a person's social,
22 emotional, or educational functioning and increases the risk of
23 developing a condition described by Paragraph (A) [~~thought,~~
24 ~~perception of reality, emotional process, or judgment, or~~

1 [~~(B) grossly impairs behavior as demonstrated by~~
2 ~~recent disturbed behavior~~].

3 (9) "Substance abuse" means a patterned use of a
4 substance, including a controlled substance, as defined by Chapter
5 481, Health and Safety Code, and alcohol, in which the person
6 consumes the substance in amounts or with methods that are harmful
7 to the person's self or to others.

8 SECTION 1.02. Section 11.252(a), Education Code, is amended
9 to read as follows:

10 (a) Each school district shall have a district improvement
11 plan that is developed, evaluated, and revised annually, in
12 accordance with district policy, by the superintendent with the
13 assistance of the district-level committee established under
14 Section 11.251. The purpose of the district improvement plan is to
15 guide district and campus staff in the improvement of student
16 performance for all student groups in order to attain state
17 standards in respect to the achievement indicators adopted under
18 Section 39.053(c). The district improvement plan must include
19 provisions for:

20 (1) a comprehensive needs assessment addressing
21 district student performance on the achievement indicators, and
22 other appropriate measures of performance, that are disaggregated
23 by all student groups served by the district, including categories
24 of ethnicity, socioeconomic status, sex, and populations served by
25 special programs, including students in special education programs
26 under Subchapter A, Chapter 29;

27 (2) measurable district performance objectives for

1 all appropriate achievement indicators for all student
2 populations, including students in special education programs
3 under Subchapter A, Chapter 29, and other measures of student
4 performance that may be identified through the comprehensive needs
5 assessment;

6 (3) strategies for improvement of student performance
7 that include:

8 (A) instructional methods for addressing the
9 needs of student groups not achieving their full potential;

10 (B) evidence-based practices that address
11 ~~[methods for addressing]~~ the needs of students for special
12 programs, including:

13 (i) suicide prevention programs, in
14 accordance with Subchapter G ~~[O-1]~~, Chapter 38 ~~[161, Health and~~
15 ~~Safety Code]~~, which include ~~[includes]~~ a parental or guardian
16 notification procedure;

17 (ii) conflict resolution programs;

18 (iii) violence prevention programs; and

19 (iv) dyslexia treatment programs;

20 (C) dropout reduction;

21 (D) integration of technology in instructional
22 and administrative programs;

23 (E) positive behavior interventions and support,
24 including interventions and support that integrate best practices
25 on grief-informed and trauma-informed care ~~[discipline~~
26 ~~management]~~;

27 (F) staff development for professional staff of

1 the district;

2 (G) career education to assist students in
3 developing the knowledge, skills, and competencies necessary for a
4 broad range of career opportunities; ~~and~~

5 (H) accelerated education; and

6 (I) implementation of a comprehensive school
7 counseling program under Section 33.005;

8 (4) strategies for providing to elementary school,
9 middle school, junior high school, and high school students, those
10 students' teachers and school counselors, and those students'
11 parents information about:

12 (A) higher education admissions and financial
13 aid opportunities, including state financial aid opportunities
14 such as ~~+~~

15 ~~(B)~~ the TEXAS grant program and the Teach for
16 Texas grant program established under Chapter 56;

17 (B) ~~(C)~~ the need for students to make informed
18 curriculum choices to be prepared for success beyond high school;
19 and

20 (C) ~~(D)~~ sources of information on higher
21 education admissions and financial aid;

22 (5) resources needed to implement identified
23 strategies;

24 (6) staff responsible for ensuring the accomplishment
25 of each strategy;

26 (7) timelines for ongoing monitoring of the
27 implementation of each improvement strategy;

1 (8) formative evaluation criteria for determining
2 periodically whether strategies are resulting in intended
3 improvement of student performance; and

4 (9) the policy under Section 38.0041 addressing sexual
5 abuse and other maltreatment of children.

6 SECTION 1.03. Section 21.044(c-1), Education Code, is
7 amended to read as follows:

8 (c-1) Any minimum academic qualifications for a certificate
9 specified under Subsection (a) that require a person to possess a
10 bachelor's degree must also require that the person receive, as
11 part of the training required to obtain that certificate,
12 instruction regarding mental health, substance abuse, and youth
13 suicide. The instruction required must:

14 (1) be provided through:

15 (A) a program selected from the list of
16 recommended best practice-based programs and research-based
17 practices established under Section 38.351; or

18 (B) a course offered by any accredited public or
19 private postsecondary educational institution as part of a degree
20 program [161.325, Health and Safety Code]; and

21 (2) include effective strategies [~~for teaching and~~
22 ~~intervening with students with mental or emotional disorders],~~
23 including de-escalation techniques and positive behavioral
24 interventions and supports, for teaching and intervening with
25 students with mental health conditions or who engage in substance
26 abuse.

27 SECTION 1.04. Section 21.054, Education Code, is amended by

1 amending Subsections (d), (d-2), (e), (e-2), (f), and (g) and
2 adding Subsection (d-1) to read as follows:

3 (d) Continuing education requirements for a classroom
4 teacher must provide that at least ~~[not more than]~~ 25 percent of the
5 training required every five years include instruction regarding:

6 (1) collecting and analyzing information that will
7 improve effectiveness in the classroom;

8 (2) recognizing early warning indicators that a
9 student may be at risk of dropping out of school;

10 (3) digital learning, digital teaching, and
11 integrating technology into classroom instruction;

12 (4) educating diverse student populations, including:

13 (A) students who are eligible to participate in
14 special education programs under Subchapter A, Chapter 29 ~~[with~~
15 ~~disabilities, including mental health disorders]~~;

16 (B) students who are eligible to receive
17 educational services required under Section 504, Rehabilitation
18 Act of 1973 (29 U.S.C. Section 794);

19 (C) students with mental health conditions or who
20 engage in substance abuse;

21 (D) students with intellectual or developmental
22 disabilities;

23 (E) students who are educationally
24 disadvantaged;

25 (F) ~~[(C)]~~ students of limited English
26 proficiency; and

27 (G) ~~[(D)]~~ students at risk of dropping out of

1 school; ~~and~~

2 (5) understanding appropriate relationships,
3 boundaries, and communications between educators and students;
4 and ~~[-]~~

5 (6) [~~(d-2) Continuing education requirements for a~~
6 ~~classroom teacher may include instruction regarding~~] how mental
7 health conditions, including grief and trauma, affect student
8 learning and behavior and how evidence-based, grief-informed, and
9 trauma-informed strategies support the academic success of
10 students affected by grief and trauma.

11 (d-1) The instruction required under Subsection (d) may
12 include two or more listed topics together.

13 (d-2) The instruction required under Subsection (d)(6) must
14 be:

15 (1) based on relevant best practice-based programs and
16 research-based practices; and

17 (2) approved by the commissioner, in consultation with
18 the Health and Human Services Commission.

19 (e) Continuing education requirements for a principal must
20 provide that at least ~~[not more than]~~ 25 percent of the training
21 required every five years include instruction regarding:

22 (1) effective and efficient management, including:

23 (A) collecting and analyzing information;

24 (B) making decisions and managing time; and

25 (C) supervising student discipline and managing
26 behavior;

27 (2) recognizing early warning indicators that a

1 student may be at risk of dropping out of school;

2 (3) digital learning, digital teaching, and
3 integrating technology into campus curriculum and instruction;

4 (4) effective implementation of a comprehensive
5 school counseling program under Section 33.005;

6 (5) mental health programs addressing a mental health
7 condition;

8 (6) educating diverse student populations, including:

9 (A) students who are eligible to participate in
10 special education programs under Subchapter A, Chapter 29 [~~with~~
11 ~~disabilities, including mental health disorders~~];

12 (B) students with intellectual or developmental
13 disabilities;

14 (C) students who are eligible to receive
15 educational services required under Section 504, Rehabilitation
16 Act of 1973 (29 U.S.C. Section 794);

17 (D) students with mental health conditions or who
18 engage in substance abuse;

19 (E) students who are educationally
20 disadvantaged;

21 (F) [~~(C)~~] students of limited English
22 proficiency; and

23 (G) [~~(D)~~] students at risk of dropping out of
24 school; [~~and~~]

25 (7) [~~(5)~~] preventing, recognizing, and reporting any
26 sexual conduct between an educator and student that is prohibited
27 under Section 21.12, Penal Code, or for which reporting is required

1 under Section 21.006 of this code; and [-]

2 (8) [~~(e-2) Continuing education requirements for a~~
3 ~~principal may include instruction regarding~~] how mental health
4 conditions, including grief and trauma, affect student learning and
5 behavior and how evidence-based, grief-informed, and
6 trauma-informed strategies support the academic success of
7 students affected by grief and trauma.

8 (e-2) The instruction required under Subsection (e)(8) must
9 be:

10 (1) based on relevant best practice-based programs and
11 research-based practices; and

12 (2) approved by the commissioner, in consultation with
13 the Health and Human Services Commission.

14 (f) Continuing education requirements for a counselor must
15 provide that at least [~~not more than~~] 25 percent of training
16 required every five years include instruction regarding:

17 (1) assisting students in developing high school
18 graduation plans;

19 (2) implementing dropout prevention strategies; [~~and~~]

20 (3) informing students concerning:

21 (A) college admissions, including college
22 financial aid resources and application procedures; and

23 (B) career opportunities;

24 (4) counseling students concerning mental health
25 conditions and substance abuse, including through the use of
26 grief-informed and trauma-informed interventions and crisis
27 management and suicide prevention strategies; and

1 (5) effective implementation of a comprehensive
2 school counseling program under Section 33.005.

3 (g) The board shall adopt rules that allow an educator to
4 fulfill ~~[up to 12 hours of]~~ continuing education requirements by
5 participating in an evidence-based [a] mental health first aid
6 training program or an evidence-based grief-informed and
7 trauma-informed care program [offered by a local mental health
8 authority under Section 1001.203, Health and Safety Code]. The
9 rules adopted under this subsection must allow an educator to
10 complete a program described by this subsection and receive credit
11 toward continuing education requirements for twice the number of
12 hours of instruction provided under that program, not to exceed 16
13 hours. The program must be offered through a classroom instruction
14 format that requires in-person attendance. [The number of hours of
15 continuing education an educator may fulfill under this subsection
16 may not exceed the number of hours the educator actually spends
17 participating in a mental health first aid training program.]

18 SECTION 1.05. Sections 21.451(d) and (d-1), Education Code,
19 are amended to read as follows:

20 (d) The staff development:

21 (1) may include training in:

22 (A) technology;

23 (B) positive behavior intervention and support
24 [conflict resolution,

25 ~~[(C) discipline]~~ strategies, including classroom
26 management, district discipline policies, and the student code of
27 conduct adopted under ~~[Section 37.001 and]~~ Chapter 37;

1 ~~[(D) preventing, identifying, responding to, and~~
2 ~~reporting incidents of bullying,]~~ and

3 (C) [(E)] digital learning;

4 (2) subject to Subsection (e) and to Section 21.3541
5 and rules adopted under that section, must include training that is
6 evidence-based, as defined by Section 8101, Every Student Succeeds
7 Act (20 U.S.C. Section 7801), and that:

8 (A) relates to instruction of students with
9 disabilities, including students with disabilities who also have
10 other intellectual or mental health conditions; and

11 (B) is designed for educators who work primarily
12 outside the area of special education; and

13 (3) must include ~~[suicide prevention]~~ training on:

14 (A) suicide prevention;

15 (B) recognizing signs of mental health
16 conditions and substance abuse;

17 (C) strategies for establishing and maintaining
18 positive relationships among students, including conflict
19 resolution;

20 (D) how grief and trauma affect student learning
21 and behavior and how evidence-based, grief-informed, and
22 trauma-informed strategies support the academic success of
23 students affected by grief and trauma; and

24 (E) preventing, identifying, responding to, and
25 reporting incidents of bullying.

26 (d-1) The training required by Subsection (d)(3):

27 (1) ~~that~~ must:

1 (A) be provided:

2 (i) [~~(A)~~] on an annual basis, as part of a
3 new employee orientation, to all new school district and
4 open-enrollment charter school educators; and

5 (ii) [~~(B)~~] to existing school district and
6 open-enrollment charter school educators on a schedule adopted by
7 the agency by rule; and [~~+~~]

8 (B) [~~(d-1)~~ ~~The suicide prevention training~~
9 ~~required by Subsection (d)(3) must~~] use a best practice-based
10 program recommended by the Health and Human Services Commission
11 [~~Department of State Health Services~~] in coordination with the
12 agency under Section 38.351; and

13 (2) may include two or more listed topics together
14 [~~161.325, Health and Safety Code~~].

15 SECTION 1.06. Section 21.462, Education Code, is amended to
16 read as follows:

17 Sec. 21.462. RESOURCES REGARDING STUDENTS WITH MENTAL
18 HEALTH OR SUBSTANCE ABUSE CONDITIONS [~~NEEDS~~]. The agency, in
19 coordination with the Health and Human Services Commission, shall
20 establish and maintain an Internet website to provide resources for
21 school district or open-enrollment charter school employees
22 regarding working with students with mental health conditions or
23 who engage in substance abuse. The agency must include on the
24 Internet website information about:

25 (1) grief-informed and trauma-informed practices;

26 (2) building skills related to managing emotions,
27 establishing and maintaining positive relationships, and

1 responsible decision-making;

2 (3) positive behavior interventions and supports; and

3 (4) a safe and supportive school climate.

4 SECTION 1.07. Sections 28.002(a) and (r), Education Code,
5 are amended to read as follows:

6 (a) Each school district that offers kindergarten through
7 grade 12 shall offer, as a required curriculum:

8 (1) a foundation curriculum that includes:

9 (A) English language arts;

10 (B) mathematics;

11 (C) science; and

12 (D) social studies, consisting of Texas, United
13 States, and world history, government, economics, with emphasis on
14 the free enterprise system and its benefits, and geography; and

15 (2) an enrichment curriculum that includes:

16 (A) to the extent possible, languages other than
17 English;

18 (B) health, with emphasis on:

19 (i) physical health, including the
20 importance of proper nutrition and exercise; and

21 (ii) mental health, including instruction
22 about mental health conditions, substance abuse, skills to manage
23 emotions, establishing and maintaining positive relationships, and
24 responsible decision-making;

25 (C) physical education;

26 (D) fine arts;

27 (E) career and technology education;

- 1 (F) technology applications;
- 2 (G) religious literature, including the Hebrew
- 3 Scriptures (Old Testament) and New Testament, and its impact on
- 4 history and literature; and
- 5 (H) personal financial literacy.

6 (r) In adopting the essential knowledge and skills for the
7 health curriculum under Subsection (a)(2)(B), the State Board of
8 Education shall adopt essential knowledge and skills that address
9 the science, risk factors, causes, dangers, ~~[causes,~~
10 consequences, signs, symptoms, and treatment of substance abuse,
11 including the use of illegal drugs, abuse of prescription drugs,
12 abuse of alcohol such as by binge drinking or other excessive
13 drinking resulting in ~~[and]~~ alcohol poisoning, inhaling solvents,
14 and other forms of substance abuse. The agency shall compile a list
15 of evidence-based substance abuse ~~[alcohol]~~ awareness programs
16 from which a school district shall choose a program to use in the
17 district's middle school, junior high school, and high school
18 health curriculum. In this subsection, "evidence-based substance
19 abuse ~~[alcohol]~~ awareness program" means a program, practice, or
20 strategy that has been proven to effectively prevent substance
21 abuse ~~[or delay alcohol use]~~ among students, as determined by
22 evaluations that are evidence-based ~~[use valid and reliable~~
23 ~~measures and that are published in peer-reviewed journals]~~.

24 SECTION 1.08. Sections 28.004(c), (d), and (k), Education
25 Code, are amended to read as follows:

26 (c) The local school health advisory council's duties
27 include recommending:

1 (1) the number of hours of instruction to be provided
2 in:

3 (A) health education in kindergarten through
4 grade eight; and

5 (B) if the school district requires health
6 education for high school graduation, health education, including
7 physical health education and mental health education, in grades 9
8 through 12;

9 (2) policies, procedures, strategies, and curriculum
10 appropriate for specific grade levels designed to prevent physical
11 health concerns, including obesity, cardiovascular disease, Type 2
12 diabetes, and mental health concerns through coordination of:

13 (A) health education, which must address
14 physical health concerns and mental health concerns to ensure the
15 integration of physical health education and mental health
16 education;

17 (B) physical education and physical activity;

18 (C) nutrition services;

19 (D) parental involvement;

20 (E) instruction on substance abuse prevention
21 ~~[to prevent the use of e-cigarettes, as defined by Section 161.081,~~
22 ~~Health and Safety Code, and tobacco];~~

23 (F) school health services, including mental
24 health services;

25 (G) a comprehensive school counseling program
26 under Section 33.005 ~~[and guidance services];~~

27 (H) a safe and healthy school environment; and

- 1 (I) school employee wellness;
- 2 (3) appropriate grade levels and methods of
3 instruction for human sexuality instruction;
- 4 (4) strategies for integrating the curriculum
5 components specified by Subdivision (2) with the following elements
6 in a coordinated school health program for the district:
- 7 (A) school health services, including physical
8 health services and mental health services, if provided at a campus
9 by the district or by a third party under a contract with the
10 district;
- 11 (B) a comprehensive school counseling program
12 under Section 33.005 [and guidance services];
- 13 (C) a safe and healthy school environment; and
- 14 (D) school employee wellness; and
- 15 (5) if feasible, joint use agreements or strategies
16 for collaboration between the school district and community
17 organizations or agencies.

18 (d) The board of trustees shall appoint at least five
19 members to the local school health advisory council. A majority of
20 the members must be persons who are parents of students enrolled in
21 the district and who are not employed by the district. One of those
22 members shall serve as chair or co-chair of the council. The board
23 of trustees also may appoint one or more persons from each of the
24 following groups or a representative from a group other than a group
25 specified under this subsection:

- 26 (1) classroom [public school] teachers employed by the
27 district;

1 (2) school counselors certified under Subchapter B,
2 Chapter 21, employed by the district;

3 (3) [~~public~~] school administrators employed by the
4 district;

5 (4) [~~3~~] district students;

6 (5) [~~4~~] health care professionals licensed or
7 certified to practice in this state, including medical or mental
8 health professionals;

9 (6) [~~5~~] the business community;

10 (7) [~~6~~] law enforcement;

11 (8) [~~7~~] senior citizens;

12 (9) [~~8~~] the clergy;

13 (10) [~~9~~] nonprofit health organizations; and

14 (11) [~~10~~] local domestic violence programs.

15 (k) A school district shall publish in the student handbook
16 and post on the district's Internet website, if the district has an
17 Internet website:

18 (1) a statement of the policies and procedures adopted
19 to promote the physical health and mental health of students, the
20 physical health and mental health resources available at each
21 campus, contact information for the nearest providers of essential
22 public health services under Chapter 121, Health and Safety Code,
23 and the contact information for the nearest local mental health
24 authority;

25 (2) a statement of the policies adopted to ensure that
26 elementary school, middle school, and junior high school students
27 engage in at least the amount and level of physical activity

1 required by Section 28.002(1);

2 (3) [~~(2)~~] a statement of:

3 (A) the number of times during the preceding year
4 the district's school health advisory council has met;

5 (B) whether the district has adopted and enforces
6 policies to ensure that district campuses comply with agency
7 vending machine and food service guidelines for restricting student
8 access to vending machines; and

9 (C) whether the district has adopted and enforces
10 policies and procedures that prescribe penalties for the use of
11 e-cigarettes, as defined by Section 38.006, and tobacco products by
12 students and others on school campuses or at school-sponsored or
13 school-related activities; [~~and~~]

14 (4) [~~(3)~~] a statement providing notice to parents that
15 they can request in writing their child's physical fitness
16 assessment results at the end of the school year; and

17 (5) for each campus in the district, a statement of
18 whether the campus has a full-time nurse or full-time school
19 counselor.

20 SECTION 1.09. Section 30.002(b), Education Code, is amended
21 to read as follows:

22 (b) The agency shall:

23 (1) develop standards and guidelines for all special
24 education services for children with visual impairments that it is
25 authorized to provide or support under this code;

26 (2) supervise regional education service centers and
27 other entities in assisting school districts in serving children

1 with visual impairments more effectively;

2 (3) develop and administer special education services
3 for students with both serious visual and auditory impairments;

4 (4) evaluate special education services provided for
5 children with visual impairments by school districts and approve or
6 disapprove state funding of those services; and

7 (5) maintain an effective liaison between special
8 education programs provided for children with visual impairments by
9 school districts and related initiatives of the Health and Human
10 Services Commission [~~Department of Assistive and Rehabilitative~~
11 ~~Services Division for Blind Services~~], the Department of State
12 Health Services Mental Health and Substance Abuse Division, the
13 Texas Workforce Commission [~~School for the Blind and Visually~~
14 ~~Impaired~~], and other related programs, agencies, or facilities as
15 appropriate.

16 SECTION 1.10. Section 33.004(b), Education Code, is amended
17 to read as follows:

18 (b) Each school, before implementing a comprehensive school
19 [~~and developmental guidance and~~] counseling program under Section
20 33.005, shall annually conduct a preview of the program for parents
21 and guardians. All materials, including curriculum to be used
22 during the year, must be available for a parent or guardian to
23 preview during school hours. Materials or curriculum not included
24 in the materials available on the campus for preview may not be
25 used.

26 SECTION 1.11. Section 33.005, Education Code, is amended to
27 read as follows:

1 Sec. 33.005. COMPREHENSIVE SCHOOL [~~DEVELOPMENTAL GUIDANCE~~
2 ~~AND~~] COUNSELING PROGRAMS. (a) A school counselor shall work with
3 the school faculty and staff, students, parents, and the community
4 to plan, implement, and evaluate a comprehensive school
5 [~~developmental guidance and~~] counseling program that conforms to
6 the most recent edition of the Texas Model for Comprehensive School
7 Counseling Programs developed by the Texas Counseling Association.

8 (b) The school counselor shall design the program to
9 include:

10 (1) a guidance curriculum to help students develop
11 their full educational potential, including the student's
12 interests and career objectives;

13 (2) a responsive services component to intervene on
14 behalf of any student whose immediate personal concerns or problems
15 put the student's continued educational, career, personal, or
16 social development at risk;

17 (3) an individual planning system to guide a student
18 as the student plans, monitors, and manages the student's own
19 educational, career, personal, and social development; and

20 (4) system support to support the efforts of teachers,
21 staff, parents, and other members of the community in promoting the
22 educational, career, personal, and social development of students.

23 SECTION 1.12. Subchapter A, Chapter 38, Education Code, is
24 amended by adding Section 38.0101 to read as follows:

25 Sec. 38.0101. AUTHORITY TO EMPLOY OR CONTRACT WITH
26 NONPHYSICIAN MENTAL HEALTH PROFESSIONAL. (a) A school district
27 may employ or contract with one or more nonphysician mental health

1 professionals.

2 (b) In this section, "nonphysician mental health
3 professional" means:

4 (1) a psychologist licensed to practice in this state
5 and designated as a health-service provider;

6 (2) a registered nurse with a master's or doctoral
7 degree in psychiatric nursing;

8 (3) a licensed clinical social worker;

9 (4) a professional counselor licensed to practice in
10 this state; or

11 (5) a marriage and family therapist licensed to
12 practice in this state.

13 SECTION 1.13. Section 38.013(a), Education Code, is amended
14 to read as follows:

15 (a) The agency shall make available to each school district
16 one or more coordinated health programs [~~designed to prevent~~
17 ~~obesity, cardiovascular disease, oral diseases, and Type 2~~
18 ~~diabetes~~] in elementary school, middle school, and junior high
19 school [~~students~~]. Each program must provide for coordinating
20 education and services related to:

21 (1) physical health education, including programs
22 designed to prevent obesity, cardiovascular disease, oral
23 diseases, and Type 2 diabetes and programs designed to promote the
24 role of proper nutrition [~~oral health education~~];

25 (2) mental health education, including education
26 about mental health conditions, mental health well-being, skills to
27 manage emotions, establishing and maintaining positive

1 relationships, and responsible decision-making;

2 (3) substance abuse education, including education
3 about alcohol abuse, prescription drug abuse, and abuse of other
4 controlled substances;

5 (4) physical education and physical activity; and

6 (5) [~~(3)~~ nutrition services; and

7 [~~(4)~~] parental involvement.

8 SECTION 1.14. Sections 38.016(a) and (c), Education Code,
9 are amended to read as follows:

10 (a) In this section:

11 (1) "Nonphysician mental health professional" has the
12 meaning assigned by Section 38.0101.

13 (2) "Parent" includes a guardian or other person
14 standing in parental relation.

15 (3) [~~(2)~~] "Psychotropic drug" means a substance that
16 is:

17 (A) used in the diagnosis, treatment, or
18 prevention of a disease or as a component of a medication; and

19 (B) intended to have an altering effect on
20 perception, emotion, or behavior.

21 (c) Subsection (b) does not:

22 (1) prevent an appropriate referral under the child
23 find system required under 20 U.S.C. Section 1412, as amended; [~~or~~]

24 (2) prohibit a school district employee, or an
25 employee of an entity with which the district contracts, who is a
26 registered nurse, advanced nurse practitioner, physician, or
27 nonphysician mental health professional licensed or certified to

1 practice in this state [~~or appropriately credentialed mental health~~
2 ~~professional~~] from recommending that a child be evaluated by a
3 physician or nonphysician mental health professional [~~an~~
4 ~~appropriate medical practitioner~~]; or

5 (3) prohibit a school employee from discussing any
6 aspect of a child's behavior or academic progress with the child's
7 parent or another school district employee.

8 SECTION 1.15. Section 38.051(b), Education Code, is amended
9 to read as follows:

10 (b) On the recommendation of an advisory council
11 established under Section 38.058 or on the initiative of the board
12 of trustees or the governing body of an open-enrollment charter
13 school, a school district or open-enrollment charter school may
14 establish a school-based health center at one or more campuses [~~in~~
15 ~~the district~~] to meet the health care needs of students and their
16 families.

17 SECTION 1.16. Section 38.054, Education Code, is amended to
18 read as follows:

19 Sec. 38.054. CATEGORIES OF SERVICES. The permissible
20 categories of services are:

- 21 (1) family and home support;
- 22 (2) physical health care, including immunizations;
- 23 (3) dental health care;
- 24 (4) health education; [~~and~~]
- 25 (5) preventive health strategies;
- 26 (6) treatment for mental health conditions; and
- 27 (7) treatment for substance abuse.

1 SECTION 1.17. Section 38.057(b), Education Code, is amended
2 to read as follows:

3 (b) If it is determined that a student is in need of a
4 referral for physical health services or mental health services,
5 the staff of the center shall notify the person whose consent is
6 required under Section 38.053 verbally and in writing of the basis
7 for the referral. The referral may not be provided unless the
8 person provides written consent for the type of service to be
9 provided and provides specific written consent for each treatment
10 occasion or for a course of treatment that includes multiple
11 treatment occasions of the same type of service.

12 SECTION 1.18. Section 38.058, Education Code, is amended to
13 read as follows:

14 Sec. 38.058. HEALTH EDUCATION AND HEALTH CARE ADVISORY
15 COUNCIL. (a) The board of trustees of a school district or the
16 governing body of an open-enrollment charter school may establish
17 and appoint members to a local health education and health care
18 advisory council to make recommendations to the district or school
19 on the establishment of school-based health centers and to assist
20 the district or school in ensuring that local community values are
21 reflected in the operation of each center and in the provision of
22 health education.

23 (b) A majority of the members of the council must be parents
24 of students enrolled in the school district or open-enrollment
25 charter school. In addition to the appointees who are parents of
26 students, the board of trustees or governing body shall also
27 appoint at least one person from each of the following groups:

- 1 (1) classroom teachers;
- 2 (2) school administrators;
- 3 (3) school counselors;
- 4 (4) [~~licensed~~] health care professionals licensed or
5 certified to practice in this state;
- 6 (5) [~~(4)~~] the clergy;
- 7 (6) [~~(5)~~] law enforcement;
- 8 (7) [~~(6)~~] the business community;
- 9 (8) [~~(7)~~] senior citizens; and
- 10 (9) [~~(8)~~] students.

11 SECTION 1.19. Subchapter B, Chapter 38, Education Code, is
12 amended by adding Section 38.0591 to read as follows:

13 Sec. 38.0591. ACCESS TO MENTAL HEALTH SERVICES. The
14 agency, in cooperation with the Health and Human Services
15 Commission, shall develop guidelines for school districts
16 regarding:

- 17 (1) partnering with a local mental health authority
18 and with community or other private mental health services
19 providers and substance abuse services providers to increase
20 student access to mental health services; and
- 21 (2) obtaining mental health services through the
22 medical assistance program under Chapter 32, Human Resources Code.

23 SECTION 1.20. Section 38.060(c), Education Code, is amended
24 to read as follows:

25 (c) The school district or open-enrollment charter school
26 [~~council~~] shall keep a record of efforts made to coordinate with
27 existing providers.

1 SECTION 1.21. Subchapter O-1, Chapter 161, Health and
2 Safety Code, as amended by Chapter 522 (S.B. 179) and Chapter 714
3 (H.B. 4056), Acts of the 85th Legislature, Regular Session, 2017,
4 is transferred to Chapter 38, Education Code, redesignated as
5 Subchapter G, Chapter 38, Education Code, reenacted, and amended to
6 read as follows:

7 SUBCHAPTER G [~~O-1~~]. MENTAL HEALTH, SUBSTANCE ABUSE, AND YOUTH
8 SUICIDE

9 Sec. 38.351 [~~161.325~~]. MENTAL HEALTH PROMOTION AND
10 INTERVENTION, SUBSTANCE ABUSE PREVENTION AND INTERVENTION, AND
11 SUICIDE PREVENTION. (a) The agency [~~department~~], in coordination
12 with the Health and Human Services Commission [~~Texas Education~~
13 ~~Agency~~] and regional education service centers, shall provide and
14 annually update a list of recommended best practice-based programs
15 and research-based practices in the areas specified under
16 Subsection (c) [~~(a-1)~~] for implementation in public elementary,
17 junior high, middle, and high schools within the general education
18 setting.

19 (b) Each school district may select from the list provided
20 under Subsection (a) a program or programs appropriate for
21 implementation in the district.

22 (c) [~~(a-1)~~] The list provided under Subsection (a) must
23 include programs and practices in the following areas:

- 24 (1) early mental health prevention and intervention;
25 (2) building skills related to managing emotions,
26 establishing and maintaining positive relationships, and
27 responsible decision-making;

- 1 ~~[(2) mental health promotion;]~~
2 (3) substance abuse prevention and intervention;
3 (4) ~~[substance abuse intervention;~~
4 ~~[(5)]~~ suicide prevention, intervention, and
5 postvention;
6 (5) ~~[(6) trauma-informed practices;~~
7 ~~[(6)]~~ grief-informed and trauma-informed practices;
8 (6) ~~[(7) building skills related to managing~~
9 ~~emotions, establishing and maintaining positive relationships, and~~
10 ~~responsible decision-making;~~
11 ~~[(7)]~~ positive school climates; ~~[and]~~
12 (7) ~~[(8)]~~ positive behavior interventions and
13 supports;
14 (8) ~~[positive behavior interventions and supports~~
15 ~~and]~~ positive youth development; and
16 (9) safe, ~~[and]~~ supportive, and positive school
17 climate.

18 (d) ~~[(a-2) The department, the Texas Education Agency, and~~
19 ~~each regional education service center shall make the list easily~~
20 ~~accessible on their websites.~~

21 ~~[(a-3)]~~ For purposes of Subsection (c) ~~[(a-1)]~~, "school
22 climate" means the quality and character of school life, including
23 interpersonal relationships, teaching and learning practices, and
24 organizational structures, as experienced by students enrolled in
25 the school district, parents of those students, and personnel
26 employed by the district.

27 (e) ~~[(b)]~~ The suicide prevention programs on the list

1 provided under Subsection (a) must include components that provide
2 for training school counselors, teachers, nurses, administrators,
3 and other staff, as well as law enforcement officers and social
4 workers who regularly interact with students, to:

5 (1) recognize students at risk of attempting
6 ~~[committing]~~ suicide, including students who are or may be the
7 victims of or who engage in bullying;

8 (2) recognize students displaying early warning signs
9 and a possible need for early mental health or substance abuse
10 intervention, which warning signs may include declining academic
11 performance, depression, anxiety, isolation, unexplained changes
12 in sleep or eating habits, and destructive behavior toward self and
13 others; ~~[and]~~

14 (3) intervene effectively with students described by
15 Subdivision (1) or (2) by providing notice and referral to a parent
16 or guardian so appropriate action, such as seeking mental health or
17 substance abuse services, may be taken by a parent or guardian; and

18 (4) assist students in returning to school following
19 treatment of a mental health concern or suicide attempt.

20 (f) ~~[(e)]~~ In developing the list of best practice-based
21 programs and research-based practices, the agency ~~[department]~~ and
22 the Health and Human Services Commission ~~[Texas Education Agency]~~
23 shall consider:

24 (1) any existing suicide prevention method developed
25 by a school district; and

26 (2) any Internet or online course or program developed
27 in this state or another state that is based on best practices

1 recognized by the Substance Abuse and Mental Health Services
2 Administration or the Suicide Prevention Resource Center.

3 (g) [~~(c-1)~~] Except as otherwise provided by this
4 subsection, each school district shall provide training described
5 in the components set forth under Subsection (e) [~~(b)~~] for
6 teachers, school counselors, principals, and all other appropriate
7 personnel. A school district is required to provide the training at
8 an elementary school campus only to the extent that sufficient
9 funding and programs are available. A school district may
10 implement a program on the list to satisfy the requirements of this
11 subsection.

12 (h) [~~(c-2)~~] If a school district provides the training
13 under Subsection (g) [~~(c-1)~~]:

14 (1) a school district employee described under that
15 subsection must participate in the training at least one time; and

16 (2) the school district shall maintain records that
17 include the name of each district employee who participated in the
18 training.

19 (i) [~~(d)~~] A school district shall [~~may~~] develop practices
20 and procedures concerning each area listed in Subsection (c)
21 [~~(a-1)~~], including mental health promotion and intervention,
22 substance abuse prevention and intervention, and suicide
23 prevention, that:

24 (1) include a procedure for providing notice of a
25 recommendation for early mental health or substance abuse
26 intervention regarding a student to a parent or guardian of the
27 student within a reasonable amount of time after the identification

1 of early warning signs as described by Subsection (e)(2) [~~(b)(2)~~];

2 (2) include a procedure for providing notice of a
3 student identified as at risk of attempting [~~committing~~] suicide to
4 a parent or guardian of the student within a reasonable amount of
5 time after the identification of early warning signs as described
6 by Subsection (e)(2) [~~(b)(2)~~];

7 (3) establish that the district may develop a
8 reporting mechanism and may designate at least one person to act as
9 a liaison officer in the district for the purposes of identifying
10 students in need of early mental health or substance abuse
11 intervention or suicide prevention; [~~and~~]

12 (4) set out available counseling alternatives for a
13 parent or guardian to consider when their child is identified as
14 possibly being in need of early mental health or substance abuse
15 intervention or suicide prevention; and

16 (5) include procedures:

17 (A) to support the return of a student to school
18 following hospitalization or residential treatment for a mental
19 health condition or substance abuse; and

20 (B) for suicide prevention, intervention, and
21 postvention.

22 (j) [~~(e)~~] The practices and procedures developed under
23 Subsection (i):

24 (1) may address multiple areas listed in Subsection
25 (c) together; and

26 (2) [~~(d)~~] must prohibit the use without the prior
27 consent of a student's parent or guardian of a medical screening of

1 the student as part of the process of identifying whether the
2 student is possibly in need of early mental health or substance
3 abuse intervention or suicide prevention.

4 (k) [~~(f)~~] The practices and procedures developed under
5 Subsection (i) [~~(d)~~] must be included in:

- 6 (1) the annual student handbook; and
- 7 (2) the district improvement plan under Section
8 [11.252](#) [~~, Education Code~~].

9 (1) The agency shall develop and make available to school
10 districts guiding principles on the coordination of programs and
11 practices in areas listed under Subsection (c).

12 (m) [~~(g)~~] The agency, the Health and Human Services
13 Commission, and each regional education service center:

14 (1) [~~department~~] may accept donations for purposes of
15 this section from sources without a conflict of interest; and

16 (2) [~~The department~~] may not accept donations for
17 purposes of this section from an anonymous source.

18 (n) [~~(i)~~] Nothing in this section is intended to interfere
19 with the rights of parents or guardians and the decision-making
20 regarding the best interest of the child. Practices and procedures
21 developed in accordance with this section are intended to notify a
22 parent or guardian of a need for mental health or substance abuse
23 intervention so that a parent or guardian may take appropriate
24 action. Nothing in this section shall be construed as giving school
25 districts the authority to prescribe medications. Any and all
26 medical decisions are to be made by a parent or guardian of a
27 student.

1 (o) In this section, "postvention" includes activities that
2 promote healing necessary to reduce the risk of suicide by a person
3 affected by the suicide of another.

4 Sec. 38.352 [~~161.326~~]. IMMUNITY. This subchapter does not:

5 (1) waive any immunity from liability of a school
6 district or of district school officers or employees;

7 (2) create any liability for a cause of action against
8 a school district or against district school officers or employees;
9 or

10 (3) waive any immunity from liability under Section
11 74.151, Civil Practice and Remedies Code.

12 ARTICLE 2. MENTAL HEALTH FIRST AID PROGRAM TRAINING AND REPORTING

13 SECTION 2.01. Section 1001.205, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 1001.205. REPORTS. (a) Not later than September 30 of
16 each year, a local mental health authority shall provide to the
17 department the number of:

18 (1) employees and contractors of the authority who
19 were trained as mental health first aid trainers under Section
20 1001.202 during the preceding fiscal year, the number of trainers
21 who left the program for any reason during the preceding fiscal
22 year, and the number of active trainers;

23 (2) university employees, school district employees,
24 and school resource officers who completed a mental health first
25 aid training program offered by the authority under Section
26 1001.203 during the preceding fiscal year categorized by local
27 mental health authority region, university or school district, as

1 applicable, and category of personnel; and

2 (3) individuals who are not university employees,
3 school district employees, or school resource officers who
4 completed a mental health first aid training program offered by the
5 authority during the preceding fiscal year.

6 (b) Not later than December 1 of each year, the department
7 shall compile the information submitted by local mental health
8 authorities as required by Subsection (a) and submit a report to the
9 legislature containing [~~the number of~~]:

10 (1) the number of authority employees and contractors
11 trained as mental health first aid trainers during the preceding
12 fiscal year, the number of trainers who left the program for any
13 reason during the preceding fiscal year, and the number of active
14 trainers;

15 (2) the number of university employees, school
16 district employees, and school resource officers who completed a
17 mental health first aid training program provided by an authority
18 during the preceding fiscal year categorized by local mental health
19 authority region, university or school district, as applicable, and
20 category of personnel; [~~and~~]

21 (3) the number of individuals who are not university
22 employees, school district employees, or school resource officers
23 who completed a mental health first aid training program provided
24 by an authority during the preceding fiscal year; and

25 (4) a detailed accounting of expenditures of money
26 appropriated for the purpose of implementing this subchapter.

27 (c) The department shall develop and provide to local mental

1 health authorities a form to be used for the reporting of
2 information required under Subsection (a), including the reporting
3 of each category of personnel described by that subsection.

4 SECTION 2.02. Subchapter H, Chapter 1001, Health and Safety
5 Code, is amended by adding Section 1001.207 to read as follows:

6 Sec. 1001.207. PROGRAM PROMOTION. (a) The commission shall
7 make available on its official Internet website information about
8 the mental health first aid training program for the purpose of
9 promoting public awareness of the program. An electronic link to an
10 outside source of information is not sufficient.

11 (b) The Texas Education Agency shall make available on its
12 official Internet website information about the mental health first
13 aid training program for the purpose of promoting public awareness
14 of the program. An electronic link to an outside source of
15 information is not sufficient.

16 ARTICLE 3. CONFORMING AMENDMENTS

17 SECTION 3.01. Section 74.151(e), Civil Practice and
18 Remedies Code, is amended to read as follows:

19 (e) Except as provided by this subsection, this section does
20 not apply to a person whose negligent act or omission was a
21 producing cause of the emergency for which care is being
22 administered. This subsection does not apply to liability of a
23 school district or district school officer or employee arising from
24 an act or omission under a program or practice [~~policy~~] or procedure
25 developed [~~adopted~~] under Subchapter G, Chapter 38, Education [~~0-1,~~
26 ~~Chapter 161, Health and Safety~~] Code, other than liability arising
27 from wilful or intentional misconduct.

1 SECTION 3.02. Section 38.0141(a), Education Code, is
2 amended to read as follows:

3 (a) Each school district shall provide to the agency
4 information as required by the commissioner, including statistics
5 and data, relating to student health and physical activity and
6 information described by Sections 28.004(k)(2), (3), and (4)
7 [~~Section 28.004(k),~~] presented in a form determined by the
8 commissioner. The district shall provide the information required
9 by this subsection for the district and for each campus in the
10 district.

11 ARTICLE 4. REPEALER; TRANSITION; EFFECTIVE DATE

12 SECTION 4.01. The following provisions of the Education
13 Code are repealed:

14 (1) Section 21.463; and

15 (2) Section 28.002(w).

16 SECTION 4.02. (a) Not later than May 1, 2020:

17 (1) the State Board for Educator Certification shall
18 propose rules under Section 21.054, Education Code, to comply with
19 the changes in law made to that section by this Act; and

20 (2) the Texas Education Agency, in cooperation with
21 the Health and Human Services Commission, shall develop the
22 guidelines required by Section 38.0591, Education Code, as added by
23 this Act.

24 (b) Not later than August 1, 2020, the Texas Education
25 Agency, in coordination with the Health and Human Services
26 Commission and regional education service centers, shall provide a
27 list of recommended best practice-based programs as required by

1 Section 38.351, Education Code, as transferred, redesignated,
2 reenacted, and amended by this Act.

3 SECTION 4.03. Any change in law made by this Act that
4 imposes a new duty or requirement on a school district or an
5 open-enrollment charter school applies beginning with the
6 2020-2021 school year.

7 SECTION 4.04. (a) Section 1001.205(a), Health and Safety
8 Code, as amended by this Act, applies only to a report due under
9 that subsection after December 31, 2019. A report due under that
10 subsection before that date is governed by the law in effect
11 immediately before the effective date of this Act, and that law is
12 continued in effect for that purpose.

13 (b) Section 1001.205(b), Health and Safety Code, as amended
14 by this Act, applies only to a report due under that subsection
15 after March 1, 2020. A report due under that subsection before that
16 date is governed by the law in effect immediately before the
17 effective date of this Act, and that law is continued in effect for
18 that purpose.

19 (c) Not later than May 1, 2020, the Health and Human
20 Services Commission shall develop and make available the form
21 required under Section 1001.205(c), Health and Safety Code, as
22 added by this Act.

23 SECTION 4.05. Not later than March 1, 2020, the Health and
24 Human Services Commission and the Texas Education Agency shall
25 update their Internet websites to include the information required
26 by Section 1001.207, Health and Safety Code, as added by this Act.

27 SECTION 4.06. This Act takes effect December 1, 2019.