

By: Allen

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

1 (C) a Taser.

2 (4) "Taser" means a device manufactured, sold, or
3 distributed by Taser International, Incorporated, that is
4 intended, designed, made, or adapted to incapacitate a person by
5 inflicting an electrical charge through the emission of a
6 projectile or conductive stream. The term, for purposes of this
7 section, includes a similar device manufactured, sold, or
8 distributed by another person.

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

- 15 (1) restraints administered to a student;
16 (2) complaints filed against a student under Section
17 [37.145](#);
18 (3) citations issued to a student; and
19 (4) arrests made of a student.

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

- 22 (1) the age of the student;
23 (2) the gender of the student;
24 (3) the race or ethnicity of the student;
25 (4) whether the student is eligible for special
26 education services under Section [29.003](#);
27 (5) whether the student is a student of limited

1 English proficiency, as defined by Section 29.052;

2 (6) the nature of the offense;

3 (7) whether the offense occurred during regular school
4 hours;

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

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

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

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

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

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

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

25 (g) A school district that enters into a memorandum of
26 understanding with a local law enforcement agency for the provision
27 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

1 A, Chapter 29;
2 (G) bilingual education under Subchapter B,
3 Chapter 29;
4 (H) prekindergarten programs under Subchapter E
5 or E-1, Chapter 29;
6 (I) extracurricular activities under Section
7 33.081;
8 (J) discipline management practices or behavior
9 management techniques under Section 37.0021;
10 (K) health and safety under Chapter 38;
11 (L) public school accountability under
12 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
13 (M) the requirement under Section 21.006 to
14 report an educator's misconduct;
15 (N) intensive programs of instruction under
16 Section 28.0213;
17 (O) the right of a school employee to report a
18 crime, as provided by Section 37.148; ~~and~~
19 (P) bullying prevention policies and procedures
20 under Section 37.0832;
21 (Q) the right of a school under Section 37.0052
22 to place a student who has engaged in certain bullying behavior in a
23 disciplinary alternative education program or to expel the student;
24 ~~and~~
25 (R) the right under Section 37.0151 to report to
26 local law enforcement certain conduct constituting assault or
27 harassment;

1 (S) [~~(P)~~] a parent's right to information
2 regarding the provision of assistance for learning difficulties to
3 the parent's child as provided by Sections 26.004(b)(11) and
4 26.0081(c) and (d); and

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

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

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

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