

By: Price

H.B. No. 1069

A BILL TO BE ENTITLED

AN ACT

1
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 adding Subdivision (9) to read as follows:

13 (9) "Substance abuse" means a patterned use of a
14 substance, including a controlled substance, as defined by Chapter
15 481, Health and Safety Code, and alcohol, in which the person
16 consumes the substance in amounts or with methods that are harmful
17 to the person's self or to others.

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

20 (a) Each school district shall have a district improvement
21 plan that is developed, evaluated, and revised annually, in
22 accordance with district policy, by the superintendent with the
23 assistance of the district-level committee established under
24 Section 11.251. The purpose of the district improvement plan is to

1 guide district and campus staff in the improvement of student
2 performance for all student groups in order to attain state
3 standards in respect to the achievement indicators adopted under
4 Section 39.053(c). The district improvement plan must include
5 provisions for:

6 (1) a comprehensive needs assessment addressing
7 district student performance on the achievement indicators, and
8 other appropriate measures of performance, that are disaggregated
9 by all student groups served by the district, including categories
10 of ethnicity, socioeconomic status, sex, and populations served by
11 special programs, including students in special education programs
12 under Subchapter A, Chapter 29;

13 (2) measurable district performance objectives for
14 all appropriate achievement indicators for all student
15 populations, including students in special education programs
16 under Subchapter A, Chapter 29, and other measures of student
17 performance that may be identified through the comprehensive needs
18 assessment;

19 (3) strategies for improvement of student performance
20 that include:

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

23 (B) methods for addressing the needs of students
24 for special programs, including:

25 (i) suicide prevention programs, in
26 accordance with Subchapter G [~~0-1~~], Chapter 38 [~~161, Health and~~
27 ~~Safety Code~~], which include [~~includes~~] a parental or guardian

1 notification procedure;

2 (ii) conflict resolution programs;

3 (iii) violence prevention programs; and

4 (iv) dyslexia treatment programs;

5 (C) dropout reduction;

6 (D) integration of technology in instructional
7 and administrative programs;

8 (E) positive behavior interventions and support,
9 including interventions and support that integrate best practices
10 on grief-informed and trauma-informed care [~~discipline~~
11 ~~management~~];

12 (F) staff development for professional staff of
13 the district;

14 (G) career education to assist students in
15 developing the knowledge, skills, and competencies necessary for a
16 broad range of career opportunities; [~~and~~]

17 (H) accelerated education; and

18 (I) implementation of a comprehensive school
19 counseling program under Section 33.005;

20 (4) strategies for providing to elementary school,
21 middle school, junior high school, and high school students, those
22 students' teachers and school counselors, and those students'
23 parents information about:

24 (A) higher education admissions and financial
25 aid opportunities, including state financial aid opportunities
26 such as [+

27 [~~(B)~~] the TEXAS grant program and the Teach for

1 Texas grant program established under Chapter 56;

2 (B) [~~(C)~~] the need for students to make informed
3 curriculum choices to be prepared for success beyond high school;
4 and

5 (C) [~~(D)~~] sources of information on higher
6 education admissions and financial aid;

7 (5) resources needed to implement identified
8 strategies;

9 (6) staff responsible for ensuring the accomplishment
10 of each strategy;

11 (7) timelines for ongoing monitoring of the
12 implementation of each improvement strategy;

13 (8) formative evaluation criteria for determining
14 periodically whether strategies are resulting in intended
15 improvement of student performance; and

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

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

20 (c-1) Any minimum academic qualifications for a certificate
21 specified under Subsection (a) that require a person to possess a
22 bachelor's degree must also require that the person receive, as
23 part of the training required to obtain that certificate,
24 instruction regarding mental health, substance abuse, and youth
25 suicide. The instruction required must:

26 (1) be provided through:

27 (A) a program selected from the list of

1 recommended best practice-based programs and research-based
2 practices established under Section 38.351; or

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

6 (2) include effective strategies [~~for teaching and~~
7 ~~intervening with students with mental or emotional disorders~~],
8 including de-escalation techniques and positive behavioral
9 interventions and supports, for teaching and intervening with
10 students with mental health conditions or who engage in substance
11 abuse.

12 SECTION 1.04. Sections 21.054(d), (d-2), (e), (e-2), (f),
13 and (g), Education Code, are amended to read as follows:

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

17 (1) collecting and analyzing information that will
18 improve effectiveness in the classroom;

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

21 (3) digital learning, digital teaching, and
22 integrating technology into classroom instruction;

23 (4) educating diverse student populations, including:

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

27 (B) students who are eligible to receive

1 educational services required under Section 504, Rehabilitation
2 Act of 1973 (29 U.S.C. Section 794);

3 (C) students with mental health conditions or who
4 engage in substance abuse;

5 (D) students who are educationally
6 disadvantaged;

7 (E) [~~(C)~~] students of limited English
8 proficiency; and

9 (F) [~~(D)~~] students at risk of dropping out of
10 school; [~~and~~]

11 (5) understanding appropriate relationships,
12 boundaries, and communications between educators and students;
13 and[~~-~~]

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

20 (d-2) The instruction required under Subsection (d)(6) must
21 be:

22 (1) based on relevant best practice-based programs and
23 research-based practices; and

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

26 (e) Continuing education requirements for a principal must
27 provide that at least [~~not more than~~] 25 percent of the training

1 required every five years include instruction regarding:

2 (1) effective and efficient management, including:

3 (A) collecting and analyzing information;

4 (B) making decisions and managing time; and

5 (C) supervising student discipline and managing
6 behavior;

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

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

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

13 (5) mental health programs addressing a mental health
14 condition;

15 (6) educating diverse student populations, including:

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

19 (B) students with intellectual or developmental
20 disabilities;

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

24 (D) students with mental health conditions or who
25 engage in substance abuse;

26 (E) students who are educationally
27 disadvantaged;

1 (F) [~~(C)~~] students of limited English
2 proficiency; and

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

5 (7) [~~(5)~~] preventing, recognizing, and reporting any
6 sexual conduct between an educator and student that is prohibited
7 under Section 21.12, Penal Code, or for which reporting is required
8 under Section 21.006 of this code; and [~~-~~]

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

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

17 (1) based on relevant best practice-based programs and
18 research-based practices; and

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

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

24 (1) assisting students in developing high school
25 graduation plans;

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

27 (3) informing students concerning:

1 (A) college admissions, including college
2 financial aid resources and application procedures; and

3 (B) career opportunities;

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

8 (5) effective implementation of a comprehensive
9 school counseling program under Section 33.005.

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

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

26 (d) The staff development:

27 (1) may include training in:

- 1 (A) technology;
- 2 (B) positive behavior intervention and support
- 3 ~~[conflict resolution;~~
- 4 ~~[(C) discipline]~~ strategies, including classroom
- 5 management, district discipline policies, and the student code of
- 6 conduct adopted under ~~[Section 37.001 and]~~ Chapter 37;
- 7 ~~[(D) preventing, identifying, responding to, and~~
- 8 ~~reporting incidents of bullying;]~~ and
- 9 (C) ~~[(E)]~~ digital learning;
- 10 (2) subject to Subsection (e) and to Section 21.3541
- 11 and rules adopted under that section, must include training that is
- 12 evidence-based, as defined by Section 8101, Every Student Succeeds
- 13 Act (20 U.S.C. Section 7801), and that:
- 14 (A) relates to instruction of students with
- 15 disabilities, including students with disabilities who also have
- 16 other intellectual or mental health conditions; and
- 17 (B) is designed for educators who work primarily
- 18 outside the area of special education; and
- 19 (3) must include ~~[suicide prevention]~~ training on:
- 20 (A) suicide prevention;
- 21 (B) recognizing signs of mental health
- 22 conditions and substance abuse;
- 23 (C) strategies for establishing and maintaining
- 24 positive relationships among students, including conflict
- 25 resolution;
- 26 (D) how grief and trauma affect student learning
- 27 and behavior and how evidence-based, grief-informed, and

1 trauma-informed strategies support the academic success of
2 students affected by grief and trauma; and

3 (E) preventing, identifying, responding to, and
4 reporting incidents of bullying.

5 (d-1) The training required by Subsection (d)(3) [that]
6 must:

7 (1) be provided:

8 (A) on an annual basis, as part of a new employee
9 orientation, to all new school district and open-enrollment charter
10 school educators; and

11 (B) to existing school district and
12 open-enrollment charter school educators on a schedule adopted by
13 the agency by rule; and [-]

14 (2) [~~(d-1) The suicide prevention training required~~
15 by Subsection (d)(3) must] use a best practice-based program
16 recommended by the Health and Human Services Commission [~~Department~~
17 ~~of State Health Services~~] in coordination with the agency under
18 Section 38.351 [~~161.325, Health and Safety Code~~].

19 SECTION 1.06. Section 21.462, Education Code, is amended to
20 read as follows:

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

1 Internet website information about:

- 2 (1) grief-informed and trauma-informed practices;
- 3 (2) building skills related to managing emotions,
- 4 establishing and maintaining positive relationships, and
- 5 responsible decision-making;
- 6 (3) positive behavior interventions and supports; and
- 7 (4) a safe and supportive school climate.

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

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

- 12 (1) a foundation curriculum that includes:
 - 13 (A) English language arts;
 - 14 (B) mathematics;
 - 15 (C) science; and
 - 16 (D) social studies, consisting of Texas, United
 - 17 States, and world history, government, economics, with emphasis on
 - 18 the free enterprise system and its benefits, and geography; and
- 19 (2) an enrichment curriculum that includes:
 - 20 (A) to the extent possible, languages other than
 - 21 English;
 - 22 (B) health, with emphasis on:
 - 23 (i) physical health, including the
 - 24 importance of proper nutrition and exercise; and
 - 25 (ii) mental health, including instruction
 - 26 about mental health conditions, substance abuse, skills to manage
 - 27 emotions, establishing and maintaining positive relationships, and

1 responsible decision-making;

2 (C) physical education;

3 (D) fine arts;

4 (E) career and technology education;

5 (F) technology applications;

6 (G) religious literature, including the Hebrew
7 Scriptures (Old Testament) and New Testament, and its impact on
8 history and literature; and

9 (H) personal financial literacy.

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

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

3 (c) The local school health advisory council's duties
4 include recommending:

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

7 (A) health education in kindergarten through
8 grade eight; and

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

13 (2) policies, procedures, strategies, and curriculum
14 appropriate for specific grade levels designed to prevent physical
15 health concerns, including obesity, cardiovascular disease, Type 2
16 diabetes, and mental health concerns through coordination of:

17 (A) health education, which must address
18 physical health concerns and mental health concerns to ensure the
19 integration of physical health education and mental health
20 education;

21 (B) physical education and physical activity;

22 (C) nutrition services;

23 (D) parental involvement;

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

27 (F) school health services, including mental

1 health services;

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

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

5 (I) school employee wellness;

6 (3) appropriate grade levels and methods of
7 instruction for human sexuality instruction;

8 (4) strategies for integrating the curriculum
9 components specified by Subdivision (2) with the following elements
10 in a coordinated school health program for the district:

11 (A) school health services, including physical
12 health services and mental health services, if provided at a campus
13 by the district or by a third party under a contract with the
14 district;

15 (B) a comprehensive school counseling program
16 under Section 33.005 [~~and guidance services~~];

17 (C) a safe and healthy school environment; and

18 (D) school employee wellness; and

19 (5) if feasible, joint use agreements or strategies
20 for collaboration between the school district and community
21 organizations or agencies.

22 (d) The board of trustees shall appoint at least five
23 members to the local school health advisory council. A majority of
24 the members must be persons who are parents of students enrolled in
25 the district and who are not employed by the district. One of those
26 members shall serve as chair or co-chair of the council. The board
27 of trustees also may appoint one or more persons from each of the

1 following groups or a representative from a group other than a group
2 specified under this subsection:

3 (1) classroom [~~public school~~] teachers employed by the
4 district;

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

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

9 (4) [~~3~~] district students;

10 (5) [~~4~~] health care professionals licensed or
11 certified to practice in this state, including medical or mental
12 health professionals;

13 (6) [~~5~~] the business community;

14 (7) [~~6~~] law enforcement;

15 (8) [~~7~~] senior citizens;

16 (9) [~~8~~] the clergy;

17 (10) [~~9~~] nonprofit health organizations; and

18 (11) [~~10~~] local domestic violence programs.

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

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

1 authority;

2 (2) a statement of the policies adopted to ensure that
3 elementary school, middle school, and junior high school students
4 engage in at least the amount and level of physical activity
5 required by Section 28.002(1);

6 (3) [~~(2)~~] a statement of:

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

9 (B) whether the district has adopted and enforces
10 policies to ensure that district campuses comply with agency
11 vending machine and food service guidelines for restricting student
12 access to vending machines; and

13 (C) whether the district has adopted and enforces
14 policies and procedures that prescribe penalties for the use of
15 e-cigarettes, as defined by Section 38.006, and tobacco products by
16 students and others on school campuses or at school-sponsored or
17 school-related activities; and

18 (4) [~~(3)~~] a statement providing notice to parents that
19 they can request in writing their child's physical fitness
20 assessment results at the end of the school year.

21 SECTION 1.09. Section 29.012(d), Education Code, is amended
22 to read as follows:

23 (d) The agency [~~Texas Education Agency~~], the Health and
24 Human Services Commission, the Texas Workforce Commission, and the
25 Department of Family and Protective Services [~~Texas Department of~~
26 ~~Mental Health and Mental Retardation, the Texas Department of Human~~
27 ~~Services, the Texas Department of Health, the Department of~~

1 ~~Protective and Regulatory Services, the Interagency Council on~~
2 ~~Early Childhood Intervention, the Texas Commission on Alcohol and~~
3 ~~Drug Abuse, and the Texas Juvenile Justice Department]~~ by a
4 cooperative effort shall develop and by rule adopt a memorandum of
5 understanding. The memorandum must:

6 (1) establish the respective responsibilities of
7 school districts and of residential facilities for the provision of
8 a free, appropriate public education, as required by the
9 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
10 et seq.) and its subsequent amendments, including each requirement
11 for children with disabilities who reside in those facilities;

12 (2) coordinate regulatory and planning functions of
13 the parties to the memorandum;

14 (3) establish criteria for determining when a public
15 school will provide educational services;

16 (4) provide for appropriate educational space when
17 education services will be provided at the residential facility;

18 (5) establish measures designed to ensure the safety
19 of students and teachers; and

20 (6) provide for binding arbitration consistent with
21 Chapter 2009, Government Code, and Section 154.027, Civil Practice
22 and Remedies Code.

23 SECTION 1.10. Section 30.0015(b), Education Code, is
24 amended to read as follows:

25 (b) The agency by rule shall develop and annually
26 disseminate standards for a school district's transfer of an
27 assistive technology device to an entity listed in this subsection

1 when a student with a disability using the device changes the school
2 of attendance in the district or ceases to attend school in the
3 district that purchased the device and the student's parents, or
4 the student if the student has the legal capacity to enter into a
5 contract, agrees to the transfer. The device may be transferred to:

6 (1) the school or school district in which the student
7 enrolls;

8 (2) a state agency, including the Health and Human
9 Services [~~Texas Rehabilitation~~] Commission and the Texas Workforce
10 Commission [~~Department of Mental Health and Mental Retardation~~],
11 that provides services to the student following the student's
12 graduation from high school; or

13 (3) the student's parents, or the student if the
14 student has the legal capacity to enter into a contract.

15 SECTION 1.11. Section 30.002(b), Education Code, is amended
16 to read as follows:

17 (b) The agency shall:

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

21 (2) supervise regional education service centers and
22 other entities in assisting school districts in serving children
23 with visual impairments more effectively;

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

26 (4) evaluate special education services provided for
27 children with visual impairments by school districts and approve or

1 disapprove state funding of those services; and

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

11 SECTION 1.12. Section 33.004(b), Education Code, is amended
12 to read as follows:

13 (b) Each school, before implementing a comprehensive school
14 [~~and developmental guidance and~~] counseling program under Section
15 33.005, shall annually conduct a preview of the program for parents
16 and guardians. All materials, including curriculum to be used
17 during the year, must be available for a parent or guardian to
18 preview during school hours. Materials or curriculum not included
19 in the materials available on the campus for preview may not be
20 used.

21 SECTION 1.13. Section 33.005, Education Code, is amended to
22 read as follows:

23 Sec. 33.005. COMPREHENSIVE SCHOOL [~~DEVELOPMENTAL GUIDANCE~~
24 ~~AND~~] COUNSELING PROGRAMS. A school counselor shall work with the
25 school faculty and staff, students, parents, and the community to
26 plan, implement, and evaluate a comprehensive school
27 [~~developmental guidance and~~] counseling program that conforms to

1 the most recent edition of the Texas Model for Comprehensive School
2 Counseling Programs developed by the Texas Counseling Association.

3 [~~The school counselor shall design the program to include:~~

4 ~~(1) a guidance curriculum to help students develop~~
5 ~~their full educational potential, including the student's~~
6 ~~interests and career objectives;~~

7 ~~(2) a responsive services component to intervene on~~
8 ~~behalf of any student whose immediate personal concerns or problems~~
9 ~~put the student's continued educational, career, personal, or~~
10 ~~social development at risk;~~

11 ~~(3) an individual planning system to guide a student~~
12 ~~as the student plans, monitors, and manages the student's own~~
13 ~~educational, career, personal, and social development; and~~

14 ~~(4) system support to support the efforts of~~
15 ~~teachers, staff, parents, and other members of the community in~~
16 ~~promoting the educational, career, personal, and social~~
17 ~~development of students.]~~

18 SECTION 1.14. Subchapter A, Chapter 38, Education Code, is
19 amended by adding Section 38.0101 to read as follows:

20 Sec. 38.0101. AUTHORITY TO EMPLOY OR CONTRACT WITH
21 NONPHYSICIAN MENTAL HEALTH PROFESSIONAL. (a) A school district
22 may employ or contract with one or more nonphysician mental health
23 professionals.

24 (b) In this section, "nonphysician mental health
25 professional" means:

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

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

3 (3) a licensed clinical social worker;

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

6 (5) a marriage and family therapist licensed to
7 practice in this state.

8 SECTION 1.15. Section 38.013(a), Education Code, is amended
9 to read as follows:

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

16 (1) physical health education, including programs
17 designed to prevent obesity, cardiovascular disease, oral
18 diseases, and Type 2 diabetes and programs designed to promote the
19 role of proper nutrition [~~oral health education~~];

20 (2) mental health education, including education
21 about mental health conditions, mental health well-being, skills to
22 manage emotions, establishing and maintaining positive
23 relationships, and responsible decision-making;

24 (3) substance abuse education, including education
25 about alcohol abuse, prescription drug abuse, and abuse of other
26 controlled substances;

27 (4) physical education and physical activity; and

1 (5) [~~(3)~~] ~~nutrition services; and~~

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

3 SECTION 1.16. Sections 38.016(a) and (c), Education Code,
4 are amended to read as follows:

5 (a) In this section:

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

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

10 (3) [~~(2)~~] "Psychotropic drug" means a substance that
11 is:

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

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

16 (c) Subsection (b) does not:

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

19 (2) prohibit a school district employee, or an
20 employee of an entity with which the district contracts, who is a
21 registered nurse, advanced nurse practitioner, physician, or
22 nonphysician mental health professional licensed or certified to
23 practice in this state [~~or appropriately credentialed mental health~~
24 ~~professional~~] from recommending that a child be evaluated by a
25 physician or nonphysician mental health professional [~~an~~
26 ~~appropriate medical practitioner~~]; or

27 (3) prohibit a school employee from discussing any

1 aspect of a child's behavior or academic progress with the child's
2 parent or another school district employee.

3 SECTION 1.17. Section 38.051(b), Education Code, is amended
4 to read as follows:

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

12 SECTION 1.18. Section 38.054, Education Code, is amended to
13 read as follows:

14 Sec. 38.054. CATEGORIES OF SERVICES. The permissible
15 categories of services are:

- 16 (1) family and home support;
- 17 (2) physical health care, including immunizations;
- 18 (3) dental health care;
- 19 (4) health education; [~~and~~]
- 20 (5) preventive health strategies;
- 21 (6) treatment for mental health conditions; and
- 22 (7) treatment for substance abuse.

23 SECTION 1.19. Section 38.057(b), Education Code, is amended
24 to read as follows:

25 (b) If it is determined that a student is in need of a
26 referral for physical health services or mental health services,
27 the staff of the center shall notify the person whose consent is

1 required under Section 38.053 verbally and in writing of the basis
2 for the referral. The referral may not be provided unless the
3 person provides written consent for the type of service to be
4 provided and provides specific written consent for each treatment
5 occasion or for a course of treatment that includes multiple
6 treatment occasions of the same type of service.

7 SECTION 1.20. Section 38.058, Education Code, is amended to
8 read as follows:

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

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

- 23 (1) classroom teachers;
24 (2) school administrators;
25 (3) school counselors;
26 (4) [licensed] health care professionals licensed or
27 certified to practice in this state;

- 1 (5) [~~(4)~~] the clergy;
- 2 (6) [~~(5)~~] law enforcement;
- 3 (7) [~~(6)~~] the business community;
- 4 (8) [~~(7)~~] senior citizens; and
- 5 (9) [~~(8)~~] students.

6 SECTION 1.21. Subchapter B, Chapter 38, Education Code, is
7 amended by adding Section 38.0591 to read as follows:

8 Sec. 38.0591. ACCESS TO MENTAL HEALTH SERVICES. The
9 agency, in cooperation with the Health and Human Services
10 Commission, shall develop guidelines for school districts
11 regarding:

12 (1) partnering with a local mental health authority
13 and with community or other private mental health services
14 providers and substance abuse services providers to increase
15 student access to school-based mental health services; and

16 (2) obtaining school-based mental health services
17 through the medical assistance program under Chapter 32, Human
18 Resources Code.

19 SECTION 1.22. Section 38.060(c), Education Code, is amended
20 to read as follows:

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

24 SECTION 1.23. Subchapter O-1, Chapter 161, Health and
25 Safety Code, as amended by Chapter 522 (S.B. 179) and Chapter 714
26 (H.B. 4056), Acts of the 85th Legislature, Regular Session, 2017,
27 is transferred to Chapter 38, Education Code, redesignated as

1 Subchapter G, Chapter 38, Education Code, reenacted, and amended to
2 read as follows:

3 SUBCHAPTER G [~~0-1~~]. MENTAL HEALTH, SUBSTANCE ABUSE, AND YOUTH
4 SUICIDE

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

15 (b) Each school district may select from the list provided
16 under Subsection (a) a program or programs appropriate for
17 implementation in the district.

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

- 20 (1) early mental health intervention;
- 21 (2) building skills related to managing emotions,
22 establishing and maintaining positive relationships, and
23 responsible decision-making;
- 24 [~~(2) mental health promotion,~~]
- 25 (3) substance abuse prevention and intervention;
- 26 (4) [~~substance abuse intervention,~~
- 27 [~~(5)~~] suicide prevention;

- 1 (5) [~~(6)~~] ~~trauma-informed practices,~~
2 ~~[(6)]~~ grief-informed and trauma-informed practices;
3 (6) [~~(7)~~] ~~building skills related to managing~~
4 ~~emotions, establishing and maintaining positive relationships, and~~
5 ~~responsible decision-making,~~
6 ~~[(7)]~~ positive school climates; ~~[and]~~
7 (7) [~~(8)~~] positive behavior interventions and
8 supports;
9 (8) [~~positive behavior interventions and supports~~
10 ~~and]~~ positive youth development; and
11 (9) safe and supportive school climate.

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

15 ~~[(a-3)]~~ For purposes of Subsection (c) [~~(a-1)~~], "school
16 climate" means the quality and character of school life, including
17 interpersonal relationships, teaching and learning practices, and
18 organizational structures, as experienced by students enrolled in
19 the school district, parents of those students, and personnel
20 employed by the district.

21 (e) [~~(b)~~] The suicide prevention programs on the list
22 provided under Subsection (a) must include components that provide
23 for training school counselors, teachers, nurses, administrators,
24 and other staff, as well as law enforcement officers and social
25 workers who regularly interact with students, to:

- 26 (1) recognize students at risk of attempting
27 [~~committing~~] suicide, including students who are or may be the

1 victims of or who engage in bullying;

2 (2) recognize students displaying early warning signs
3 and a possible need for early mental health or substance abuse
4 intervention, which warning signs may include declining academic
5 performance, depression, anxiety, isolation, unexplained changes
6 in sleep or eating habits, and destructive behavior toward self and
7 others; and

8 (3) intervene effectively with students described by
9 Subdivision (1) or (2) by providing notice and referral to a parent
10 or guardian so appropriate action, such as seeking mental health or
11 substance abuse services, may be taken by a parent or guardian.

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

16 (1) any existing suicide prevention method developed
17 by a school district; and

18 (2) any Internet or online course or program developed
19 in this state or another state that is based on best practices
20 recognized by the Substance Abuse and Mental Health Services
21 Administration or the Suicide Prevention Resource Center.

22 (g) [~~(e-1)~~] Except as otherwise provided by this
23 subsection, each school district shall provide training described
24 in the components set forth under Subsection (e) [~~(b)~~] for
25 teachers, school counselors, principals, and all other appropriate
26 personnel. A school district is required to provide the training at
27 an elementary school campus only to the extent that sufficient

1 funding and programs are available. A school district may
2 implement a program on the list to satisfy the requirements of this
3 subsection.

4 (h) [~~(e-2)~~] If a school district provides the training
5 under Subsection (g) [~~(e-1)~~]:

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

8 (2) the school district shall maintain records that
9 include the name of each district employee who participated in the
10 training.

11 (i) [~~(d)~~] A school district shall [~~may~~] develop practices
12 and procedures concerning each area listed in Subsection (c)
13 [~~(a-1)~~], including mental health promotion and intervention,
14 substance abuse prevention and intervention, and suicide
15 prevention, that:

16 (1) include a procedure for providing notice of a
17 recommendation for early mental health or substance abuse
18 intervention regarding a student to a parent or guardian of the
19 student within a reasonable amount of time after the identification
20 of early warning signs as described by Subsection (e)(2) [~~(b)(2)~~];

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

26 (3) establish that the district may develop a
27 reporting mechanism and may designate at least one person to act as

1 a liaison officer in the district for the purposes of identifying
2 students in need of early mental health or substance abuse
3 intervention or suicide prevention; and

4 (4) set out available counseling alternatives for a
5 parent or guardian to consider when their child is identified as
6 possibly being in need of early mental health or substance abuse
7 intervention or suicide prevention.

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

10 (1) may address multiple areas listed in Subsection
11 (c) together; and

12 (2) [~~(d)~~] must prohibit the use without the prior
13 consent of a student's parent or guardian of a medical screening of
14 the student as part of the process of identifying whether the
15 student is possibly in need of early mental health or substance
16 abuse intervention or suicide prevention.

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

19 (1) the annual student handbook; and

20 (2) the district improvement plan under Section
21 [11.252](#) [~~7, Education Code~~].

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

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

27 (1) [~~department~~] may accept donations for purposes of

1 this section from sources without a conflict of interest; and

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

4 (n) [~~(i)~~] Nothing in this section is intended to interfere
5 with the rights of parents or guardians and the decision-making
6 regarding the best interest of the child. Practices and procedures
7 developed in accordance with this section are intended to notify a
8 parent or guardian of a need for mental health or substance abuse
9 intervention so that a parent or guardian may take appropriate
10 action. Nothing in this section shall be construed as giving school
11 districts the authority to prescribe medications. Any and all
12 medical decisions are to be made by a parent or guardian of a
13 student.

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

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

17 (2) create any liability for a cause of action against
18 a school district or against district school officers or employees;
19 or

20 (3) waive any immunity from liability under Section
21 74.151, Civil Practice and Remedies Code.

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

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

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

1 (1) employees and contractors of the authority who
2 were trained as mental health first aid trainers under Section
3 1001.202 during the preceding fiscal year, the number of trainers
4 who left the program for any reason during the preceding fiscal
5 year, and the number of active trainers;

6 (2) university employees, school district employees,
7 and school resource officers who completed a mental health first
8 aid training program offered by the authority under Section
9 1001.203 during the preceding fiscal year categorized by local
10 mental health authority region, university or school district, as
11 applicable, and category of personnel; and

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

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

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

25 (2) the number of university employees, school
26 district employees, and school resource officers who completed a
27 mental health first aid training program provided by an authority

1 during the preceding fiscal year categorized by local mental health
2 authority region, university or school district, as applicable, and
3 category of personnel; ~~and~~

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

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

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

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

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

22 ARTICLE 3. CONFORMING AMENDMENTS

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

25 (e) Except as provided by this subsection, this section does
26 not apply to a person whose negligent act or omission was a
27 producing cause of the emergency for which care is being

1 administered. This subsection does not apply to liability of a
2 school district or district school officer or employee arising from
3 an act or omission under a program or practice [~~policy~~] or procedure
4 developed [~~adopted~~] under Subchapter G, Chapter 38, Education [~~O-1,~~
5 ~~Chapter 161, Health and Safety~~] Code, other than liability arising
6 from wilful or intentional misconduct.

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

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

17 ARTICLE 4. REPEALER; TRANSITION; EFFECTIVE DATE

18 SECTION 4.01. The following provisions of the Education
19 Code are repealed:

- 20 (1) Section 21.463; and
21 (2) Section 28.002(w).

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

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

26 (2) the Texas Education Agency, in cooperation with
27 the Health and Human Services Commission, shall develop the

1 guidelines required by Section 38.0591, Education Code, as added by
2 this Act.

3 (b) Not later than August 1, 2020, the Texas Education
4 Agency, in coordination with the Health and Human Services
5 Commission and regional education service centers, shall provide a
6 list of recommended best practice-based programs as required by
7 Section 38.351, Education Code, as transferred, redesignated,
8 reenacted, and amended by this Act.

9 SECTION 4.03. Any change in law made by this Act that
10 imposes a new duty or requirement on a school district or an
11 open-enrollment charter school applies beginning with the
12 2020-2021 school year.

13 SECTION 4.04. (a) Section 1001.205(a), Health and Safety
14 Code, as amended by this Act, applies only to a report due under
15 that subsection after December 31, 2019. A report due under that
16 subsection before that date is governed by the law in effect
17 immediately before the effective date of this Act, and that law is
18 continued in effect for that purpose.

19 (b) Section 1001.205(b), Health and Safety Code, as amended
20 by this Act, applies only to a report due under that subsection
21 after March 1, 2020. A report due under that subsection before that
22 date is governed by the law in effect immediately before the
23 effective date of this Act, and that law is continued in effect for
24 that purpose.

25 SECTION 4.05. Not later than March 1, 2020, the Health and
26 Human Services Commission and the Texas Education Agency shall
27 update their Internet websites to include the information required

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1 by Section 1001.207, Health and Safety Code, as added by this Act.

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