

By: Allen, Reynolds, et al.

H.B. No. 785

Substitute the following for H.B. No. 785:

By: Dutton

C.S.H.B. No. 785

A BILL TO BE ENTITLED

1 AN ACT
2 relating to behavior improvement plans and behavioral intervention
3 plans for certain public school students and notification and
4 documentation requirements regarding certain behavior management
5 techniques.

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

7 SECTION 1. Section 29.005, Education Code, is amended by
8 adding Subsection (h) to read as follows:

9 (h) If a behavior improvement plan or a behavioral
10 intervention plan is included as part of a student's individualized
11 education program under Subsection (g), the committee shall review
12 the plan at least annually and more frequently if appropriate to
13 address:

14 (1) changes in a student's circumstances that may
15 impact the student's behavior, such as:

16 (A) the placement of the student in a different
17 educational setting;

18 (B) an increase or persistence in disciplinary
19 actions taken regarding the student for similar types of behavioral
20 incidents;

21 (C) a pattern of unexcused absences; or

22 (D) an unauthorized unsupervised departure from
23 an educational setting; or

24 (2) the safety of the student or others.

1 SECTION 2. Section 37.0021(d), Education Code, is amended
2 to read as follows:

3 (d) The commissioner by rule shall adopt procedures for the
4 use of restraint and time-out by a school district employee or
5 volunteer or an independent contractor of a district in the case of
6 a student with a disability receiving special education services
7 under Subchapter A, Chapter 29. A procedure adopted under this
8 subsection must:

9 (1) be consistent with:

10 (A) professionally accepted practices and
11 standards of student discipline and techniques for behavior
12 management; and

13 (B) relevant health and safety standards; ~~and~~

14 (2) identify any discipline management practice or
15 behavior management technique that requires a district employee or
16 volunteer or an independent contractor of a district to be trained
17 before using that practice or technique; and

18 (3) require a school district to:

19 (A) provide written notification to the
20 student's parent or person standing in parental relation to the
21 student for each use of restraint that includes:

22 (i) the name of the student;

23 (ii) the name of the district employee or
24 volunteer or independent contractor of the district who
25 administered the restraint;

26 (iii) the date of the restraint;

27 (iv) the time that the restraint started

1 and ended;

2 (v) the location of the restraint;

3 (vi) the nature of the restraint;

4 (vii) a description of the activity in
5 which the student was engaged immediately preceding the use of the
6 restraint;

7 (viii) the behavior of the student that
8 prompted the restraint;

9 (ix) any efforts made to de-escalate the
10 situation and any alternatives to restraint that were attempted;

11 (x) if the student has a behavior
12 improvement plan or a behavioral intervention plan, whether the
13 plan may need to be revised as a result of the behavior that led to
14 the restraint; and

15 (xi) if the student does not have a behavior
16 improvement plan or a behavioral intervention plan, information on
17 the procedure for the student's parent or person standing in
18 parental relation to the student to request an admission, review,
19 and dismissal committee meeting to discuss the possibility of
20 conducting a functional behavioral assessment of the student and
21 developing a plan for the student;

22 (B) include in a student's special education
23 eligibility school records:

24 (i) a copy of the written notification
25 provided to the student's parent or person standing in parental
26 relation to the student under Paragraph (A);

27 (ii) information on the method by which the

1 written notification was sent to the parent or person; and
2 (iii) the contact information for the
3 parent or person to whom the district sent the notification; and
4 (C) if the student has a behavior improvement
5 plan or behavioral intervention plan, document each use of time-out
6 prompted by a behavior of the student specified in the student's
7 plan, including a description of the behavior that prompted the
8 time-out.

9 SECTION 3. Section 37.004, Education Code, is amended by
10 adding Subsection (b-1) to read as follows:

11 (b-1) If a school district takes a disciplinary action
12 regarding a student with a disability who receives special
13 education services that constitutes a change in placement under
14 federal law, the district shall:

15 (1) not later than the 10th school day after the change
16 in placement:

17 (A) seek consent from the student's parent or
18 person standing in parental relation to the student to conduct a
19 functional behavioral assessment of the student, if a functional
20 behavioral assessment has never been conducted on the student or
21 the student's most recent functional behavioral assessment is more
22 than one year old; and

23 (B) review any previously conducted functional
24 behavioral assessment of the student and any behavior improvement
25 plan or behavioral intervention plan developed for the student
26 based on that assessment; and

27 (2) as necessary:

1 (A) develop a behavior improvement plan or
2 behavioral intervention plan for the student if the student does
3 not have a plan; or

4 (B) if the student has a behavior improvement
5 plan or behavioral intervention plan, revise the student's plan.

6 SECTION 4. This Act applies beginning with the 2021-2022
7 school year.

8 SECTION 5. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2021.