

By: Wu

H.B. No. 1194

A BILL TO BE ENTITLED

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

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

7 SECTION 1. Subchapter C, Chapter 37, Education Code, is
8 amended by adding Section 37.086 to read as follows:

9 Sec. 37.086. REPORT TO AGENCY ON RESTRAINTS, COMPLAINTS,
10 CITATIONS, AND ARRESTS. (a) In this section:

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

15 (2) "OC spray" means any aerosol-propelled
16 debilitation device that is composed of a lachrymatory chemical
17 compound that irritates the eyes to cause tears, pain, or temporary
18 blindness. The term includes pepper spray, capsicum spray, OC gas,
19 and oleoresin capsicum.

20 (3) "Restraint" means the use of physical force or a
21 mechanical device to significantly restrict the free movement of
22 all or a portion of a student's body. The term includes the use of:

23 (A) a baton or a similar club;

24 (B) OC spray; and

1 (C) a TASER.

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

18 (3) the following incidents occurring on school
19 property that result from a district employee's request for
20 intervention by a law enforcement agency, district peace officer,
21 or school resource officer:

22 (A) citations issued to a student; and

23 (B) arrests made of a student.

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

26 (1) the age of the student;

27 (2) the gender of the student;

- 1 (3) the race or ethnicity of the student;
2 (4) whether the student is eligible for special
3 education services under Section 29.003;
4 (5) whether the student is a student of limited
5 English proficiency, as defined by Section 29.052;
6 (6) whether the student is in the conservatorship of
7 the Department of Family and Protective Services;
8 (7) whether the student is homeless, as defined by 42
9 U.S.C. Section 11302;
10 (8) the nature of the offense;
11 (9) whether the offense occurred during regular school
12 hours;
13 (10) whether the offense occurred on school property
14 or off school property while the student was attending a
15 school-sponsored or school-related activity;
16 (11) the type of restraint administered to the
17 student;
18 (12) the offense for which a complaint was filed
19 against the student or for which the student was issued a citation
20 or was arrested; and
21 (13) the campus at which the student was enrolled at
22 the time of the incident.
23 (d) The data collected for a report required under this
24 section does not constitute prima facie evidence of racial
25 profiling.
26 (e) A report required under this section may not include
27 information that identifies the peace officer who issued a

1 citation. The identity of the peace officer is confidential and not
2 subject to disclosure under Chapter 552, Government Code.

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

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

12 (h) The agency shall collect the reports required under this
13 section, compile the data, and make the data available to the
14 public. The data must be disaggregated by school district to the
15 extent possible while protecting the confidentiality of student
16 information in accordance with Subsection (f).

17 (i) The commissioner shall adopt rules as necessary to
18 implement this section, including rules requiring the reporting of
19 incident-based data using existing Public Education Information
20 Management System (PEIMS) codes for the reporting of incidents
21 described by Subsection (b).

22 SECTION 2. Section 12.104(b), Education Code, as amended by
23 Chapters 262 (H.B. 1597), 464 (S.B. 11), 467 (H.B. 4170), and 943
24 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, is
25 reenacted and amended to read as follows:

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

27 (1) a provision of this title establishing a criminal

1 offense;

2 (2) the provisions in Chapter 554, Government Code;
3 and

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

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

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

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

14 (D) accelerated instruction under Section
15 28.0211;

16 (E) high school graduation requirements under
17 Section 28.025;

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

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

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

24 (I) extracurricular activities under Section
25 33.081;

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

- 1 (K) health and safety under Chapter 38;
- 2 (L) public school accountability under
3 Subchapters B, C, D, F, G, and J, Chapter 39, and Chapter 39A;
- 4 (M) the requirement under Section 21.006 to
5 report an educator's misconduct;
- 6 (N) intensive programs of instruction under
7 Section 28.0213;
- 8 (O) the right of a school employee to report a
9 crime, as provided by Section 37.148;
- 10 (P) bullying prevention policies and procedures
11 under Section 37.0832;
- 12 (Q) the right of a school under Section 37.0052
13 to place a student who has engaged in certain bullying behavior in a
14 disciplinary alternative education program or to expel the student;
- 15 (R) the right under Section 37.0151 to report to
16 local law enforcement certain conduct constituting assault or
17 harassment;
- 18 (S) a parent's right to information regarding the
19 provision of assistance for learning difficulties to the parent's
20 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);
- 21 (T) establishment of residency under Section
22 25.001;
- 23 (U) [~~(T)~~] school safety requirements under
24 Sections 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.115,
25 37.207, and 37.2071;
- 26 (V) [~~(T)~~] the early childhood literacy and
27 mathematics proficiency plans under Section 11.185; [~~and~~]

1 (W) [~~(U)~~] the college, career, and military
2 readiness plans under Section 11.186; and

3 (X) the reporting of certain information
4 regarding restraints, complaints, citations, and arrests under
5 Section 37.086.

6 SECTION 3. This Act applies beginning with the 2021-2022
7 school year.

8 SECTION 4. To the extent of any conflict, this Act prevails
9 over another Act of the 87th Legislature, Regular Session, 2021,
10 relating to nonsubstantive additions to and corrections in enacted
11 codes.

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