

BILL ANALYSIS

C.S.H.B. 459
By: Hull
Youth Health & Safety, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been tragic instances of children experiencing emotional or behavioral disturbances who have been handcuffed by school resource officers or other law enforcement while at school. This can be extremely traumatic for children, as well as for the law enforcement called to respond. There are other means of de-escalation that could be utilized to address these behavioral incidents. Restraining a child would only exacerbate the situation and inflict trauma. Prohibiting these actions is a much-needed reform that could help put a stop to the school-to-prison pipeline. C.S.H.B. 459 seeks to address this issue by providing for prohibitions against the use of certain restraint and chemical irritants on certain public school students.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 459 amends the Education Code to prohibit a peace officer performing law enforcement duties or school security personnel performing security-related duties on the property of a public school or at a school-sponsored or school-related activity from restraining or using a chemical irritant spray on a student 10 years of age or younger unless the student poses an imminent risk of harm to the student or another person. The bill requires the procedures adopted by the commissioner of education for the use of restraint and time-out on a student with a disability receiving special education services to prohibit a district employee or volunteer or an independent contractor of a district from using any variation of a restraint or other technique that results in full body immobilization of the student in a prone or supine position on the floor or ground.

C.S.H.B. 459 requires the commissioner, in consultation with the continuing advisory committee for special education, to adopt rules as necessary to implement the bill's provisions, including rules to provide required definitions of terms. The bill applies beginning with the 2023-2024 school year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 459 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement for the procedures adopted by the commissioner for the use of restraint and time-out on a student with a disability receiving special education services to prohibit the use of any variation of a restraint or other technique that results in full body immobilization of the student in a prone or supine position on the floor or ground, which was not present in the introduced.

The substitute changes from a serious risk of harm to the student or another person, as in the introduced, to an imminent risk of harm to the student or another person the type of risk that must be posed by a student 10 years or younger for an applicable peace officer or school security personnel to be excepted from the bill's prohibition against the use of restraint or a chemical irritant spray.

The substitute includes the following provisions, which did not appear in the introduced:

- a requirement for the commissioner, in consultation with the continuing advisory committee for special education, to adopt rules to implement the bill's provisions; and
- a provision that makes the bill's provisions applicable beginning with the 2023-2024 school year.