

BILL ANALYSIS

C.S.H.B. 516
By: Wu
Youth Health & Safety, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Public school districts and open-enrollment charter schools in Texas are not currently required to report altercations in school between a student and a law enforcement officer to the Texas Education Agency. Given concerns about potential inequities within our education system regarding student arrests and certain punishments in schools, reporting relating to these incidents is critical for a better understanding of this issue. C.S.H.B. 516 seeks to provide for reporting by districts and charter schools each school year on the total number of restraints administered to students by law enforcement, criminal complaints filed against students, and student arrests. The bill sets out additional information required in the report, including certain demographic information about the student and the student body.

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 1 of this bill.

ANALYSIS

C.S.H.B. 516 amends the Education Code to require the superintendents of public school districts and open-enrollment charter schools to electronically submit to the Texas Education Agency (TEA) a report that contains incident-based data, organized by campus, describing the total number of the following incidents occurring during the preceding school year:

- a teacher sending a student to the campus behavior coordinator's or other administrator's office or removing a student from class;
- restraints administered to a student;
- complaints filed against a student with a criminal court for certain school offenses; and
- the following incidents occurring on school property that result from a district employee's request for intervention by a law enforcement agency, district peace officer, or school resource officer:
 - citations issued to a student; and
 - arrests made of a student.

The bill defines "citation" as 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 under the bill's provisions.

C.S.H.B. 516 requires the incident-based data so submitted to include the following:

- as applicable, information identifying the following:
 - the campus at which the student was enrolled at the time of the incident;
 - the type of restraint administered to the student;

- the age, gender, and race or ethnicity of the student;
- the nature of the offense;
- whether the offense occurred during regular school hours;
- whether the offense occurred on school property or off school property while the student was attending a school-sponsored or school-related activity;
- the offense for which a complaint was filed against the student or for which the student was issued a citation or was arrested; and
- whether the student is homeless, eligible for special education services, an emergent bilingual student, or in the conservatorship of the Department of Family and Protective Services; and
- a comparison for each campus of the demographics of students who were the subject of an incident to the demographics of the campus's student body, disaggregated by age, gender, race or ethnicity, eligibility for special education services, status as an emergent bilingual student, status in a conservatorship, or homelessness status.

"Restraint," as defined by the bill, 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 the following:

- a baton or a similar club;
- OC spray, defined by the bill as any aerosol-propelled debilitation device that is composed of a lachrymatory chemical compound that irritates the eyes to cause tears, pain, or temporary blindness, including pepper spray, capsicum spray, OC gas, and oleoresin capsicum; and
- a conducted energy weapon, defined by the bill as a device that is intended, designed, made, or adapted to inflict pain on, immobilize, or incapacitate a person by delivering electrical energy into the person's body through direct contact or through one or more projectiles.

C.S.H.B. 516 establishes the following with respect to a required report:

- the report must be submitted not later than the 60th day after the last day of classes for the school year;
- the data collected for a report does not constitute prima facie evidence of racial profiling;
- a report may not include personally identifiable student information;
- a report must comply with the federal Family Educational Rights and Privacy Act of 1974; and
- a report may not include information that identifies a peace officer who issued a citation, and the officer's identity is confidential and not subject to disclosure under state public information law.

A school district that enters into a memorandum of understanding with a local law enforcement agency for the provision of regular police presence on campus must designate in the memorandum of understanding which entity will be responsible for collecting the data under the bill's provisions.

C.S.H.B. 516 requires TEA to collect the reports, compile the data, and make the data available to the public. The data must be disaggregated by school district to the extent possible while protecting the confidentiality of student information.

C.S.H.B. 516 requires the commissioner of education to adopt rules as necessary to implement the bill, including rules requiring the data to use existing PEIMS codes.

C.S.H.B. 516 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. 516 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 omits a requirement from the introduced for the incident report submitted to TEA to include the name of any teacher who sent a student to the campus behavior coordinator's or other administrator's office or removed a student from class more than twice during the applicable school year.