

BILL ANALYSIS

C.S.H.B. 3928
By: Toth
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Parents have raised concerns that some students may be falling behind in their education as a result of not being properly identified as having dyslexia or a related disorder and therefore not having the resources they need to most effectively learn. Providing for evaluations of students for dyslexia and related disorders and making those students eligible to participate in a public school district's special education program may help address these concerns. C.S.H.B. 3928 seeks to help students obtain evaluations for dyslexia and related disorders and to assist them in obtaining the educational resources they need.

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 3 of this bill.

ANALYSIS

C.S.H.B. 3928 amends the Education Code to include dyslexia or a related disorder among the disabilities for which an applicable student is eligible to participate in a public school district's special education program. The bill requires a district, in addition to the currently required screening and testing for dyslexia and related disorders, to request consent from the parent of a student enrolled in kindergarten through grade 12 for a full individual and initial evaluation (FIIE) to evaluate the student for dyslexia or a related disorder if the district does the following:

- suspects that the student has dyslexia or a related disorder;
- identifies the student as at risk for reading difficulties, including dyslexia and related disorders, using quantitative and qualitative data indicating that the student exhibits characteristics of a student with dyslexia or a related disorder or other specific learning disability; or
- removes the student from the student's assigned campus and the student is exhibiting academic difficulties in reading, spelling, or written expression or complex conditions or behaviors that may result from an undiagnosed learning disability.

C.S.H.B. 3928 requires the FIIE to consider associated academic difficulties and other conditions that regularly affect students with dyslexia and related disorders and to assess a student for dyslexia and related disorders using the following:

- best practices for identifying dyslexia and related disorders that are aligned with knowledge and practice standards of the International Dyslexia Association; and
- the process outlined in the Texas Dyslexia Handbook, as published by the Texas Education Agency (TEA), and its subsequent amendments.

The bill requires a district, during such an evaluation, to ensure that the student is provided appropriate tiered interventions and continues to receive grade-level appropriate, evidence-based core reading instruction. The bill prohibits a district from delaying the evaluation of a student based on the implementation of another intervention process for the student.

C.S.H.B. 3928 authorizes the evaluation of a student, on determining that the student is at risk for dyslexia or a related disorder, by a multidisciplinary team that includes at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The bill requires the member to meet one of the following criteria:

- hold a dyslexia therapist license;
- hold the most advanced dyslexia-related certification issued by an association accredited by the International Multisensory Structured Language Education Council, including an academic language practitioner or therapist with a master's degree and certified by the Academic Language Therapy Association; or
- if a person meeting those qualifications is not available, meet the applicable training requirements for the position adopted by commissioner of education rule.

If a student is evaluated for dyslexia and related disorders by a licensed specialist in school psychology or a diagnostician for dyslexia or a related disorder, a determination that a student has dyslexia or a related disorder must be made in collaboration with a qualified person who holds a dyslexia therapist license or the most advanced dyslexia-related certification issued by an accredited association as specified. The bill requires the qualified person to sign the evaluation to affirm the person's participation in the evaluation.

C.S.H.B. 3928 requires a district to employ dyslexia therapists, practitioners, specialists, or interventionists to provide dyslexia intervention services to students with dyslexia and related disorders. The bill establishes that such a person must be fully trained in the district's adopted instructional materials for students with dyslexia and is not required to hold a certificate or permit in special education. The completion of a literacy achievement academy by an educator who participates in the evaluation or instruction of students with dyslexia or related disorder does not satisfy the requirements of being fully trained in the district's adopted instructional materials for students with dyslexia.

C.S.H.B. 3928 requires the admission, review, and dismissal (ARD) committee to do the following for a student who is determined, as a result of dyslexia or a related disorder, to need additional instruction that is not provided to students without dyslexia or a related disorder or additional instruction to meet the student's academic goals related to the required curriculum:

- develop an individualized education program (IEP) for the student; and
- ensure that the IEP aligns with the processes established in the Texas Dyslexia Handbook, as published by TEA, and its subsequent amendments while meeting the individual needs of the student.

C.S.H.B. 3928 requires the district, if a student's parent declines to consent to an FIIE or to the development of an IEP for the student, to submit a statement to TEA documenting that the district has explained to the parent the rights the parent is waiving under the federal Individuals with Disabilities Education Act and that the accommodations and dyslexia interventions offered under a plan created under Section 504 of the federal Rehabilitation Act of 1973 are available under an IEP.

C.S.H.B. 3928 requires the commissioner, as soon as practicable after the bill's effective date and using a negotiated rulemaking process, to adopt rules as necessary to implement the bill's provisions with respect to the FIIE for dyslexia and related disorders or dyslexia intervention. The rules must include a process by which a district submits a statement to TEA each time a student's parent declines to consent to an FIIE or to the development of an IEP. The bill requires the rules, with respect to the evaluation for dyslexia and related disorders, to include requirements for annual training and signed affidavits to ensure hearing officers and district

boards are aware and understand changes to the law, commissioner rules, and any updated guidelines from the State Board of Education related to dyslexia or a related disorder.

C.S.H.B. 3928 requires the board of trustees of each district to adopt a grievance procedure under which the board must address each complaint that the board receives concerning a violation of a right related to the screening and intervention services for dyslexia or a related disorder under the bill's provisions or the implementation by the district of the Texas Dyslexia Handbook. The bill prohibits the adopted policy from interfering with a parent's due process rights under the federal Individuals with Disabilities Education Act. The bill requires the following, as soon as practicable after the bill's effective date:

- each district to notify the parent or person standing in parental relation to a student who has been identified as having dyslexia or a related disorder and who received dyslexia and instructional support under Section 504 of the federal Rehabilitation Act of 1973 during the 2022-2023 school year of the parent's or person's right to request an FIIE; and
- the commissioner to develop and make available a model notice that a district may use to provide such a notice.

The bill requires TEA, not later than September 1, 2023, to provide additional training materials to districts regarding the evaluation and identification of students with dyslexia or a related disorder in accordance with the bill's provisions. The bill's provisions apply 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. 3928 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 provisions that were not in the introduced requiring a district board of trustees to adopt a grievance procedure with respect to dyslexia intervention and prohibiting the policy from interfering with a parent's due process rights.

The substitute changes provisions in the introduced relating to dyslexia and related disorders, as follows:

- specifies that the FIIE is in addition to the screening and testing for dyslexia and related disorders required under current law;
- clarifies that provisions regarding the process outlined in the Texas Dyslexia Handbook apply to the handbook as published by TEA and its subsequent amendments; and
- conditions the evaluation by a multidisciplinary team on the determination that a student is at risk for dyslexia or a related disorder.

Whereas the introduced provided for an FIIE to assess for dyslexia and related disorders using the best practices aligned with knowledge and practice standards of other recognized professional organizations, the substitute provides for those best practices to be aligned with knowledge and practice standards of the International Dyslexia Association specifically.

The substitute includes among qualifications for a member of the multidisciplinary team holding the most advanced dyslexia-related certification as specified or, if a qualified person is not available, to meet the applicable training requirements for the position adopted by commissioner rule, whereas the introduced included holding a certification issued by an appropriate association or having received training from an appropriate training provider among those qualifications.

Whereas the substitute requires a qualified person to sign the evaluation to affirm their participation in an evaluation by a licensed specialist in school psychology or a diagnostician for dyslexia or a related disorder for a determination that a student has dyslexia or a related disorder to be made, the introduced only required the qualified individual to sign the evaluation if a student is evaluated and indicated not to have dyslexia or a related disorder.

The substitute includes a provision not present in the introduced requiring the commissioner to adopt rules as necessary to implement provisions relating to dyslexia intervention and requiring the rules to include a process for a district to submit a statement to TEA each time a student's parent declines to consent to the development of an IEP for the student.

The substitute revises a provision in the introduced regarding the model notice made available by the commissioner by authorizing a district to use the notice to notify a parent or person standing in parental relation to an applicable student of the right to request an FIIE, whereas the introduced required the district to use the notice.

The substitute changes the bill's effective date from effective September 1, 2023, as in the introduced, to on passage, or, if the bill does not receive the necessary vote, September 1, 2023.