

BILL ANALYSIS

Senate Research Center
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S.B. 133
By: West
Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 2021–2022 school year, there were approximately 35,000 incidents where students were restrained, with over 4,000 of those incidents involving restraint by a peace officer/school resource officer. During the 2020–2021 school year, there were approximately 23,000 incidents where students were restrained, with approximately 1,600 restraints by PO/SRO. For the 2019–2020 school year, the number was approximately 33,000 incidents, with approximately 3,500 restraints by PO/SRO. During the 2018–2019 school year in Texas, there were approximately 45,000 incidents where students were restrained, with approximately 6,000 restraints by PO/SRO. The decline in incidents was due to the COVID-19 pandemic causing large numbers of students to be out of classrooms and schools for extended periods. However, the data demonstrates a trend towards pre-COVID levels of restraints.

Students as young as 5 years old are often restrained for minor infractions, such as dress code violations or disturbances in class. Approximately 50 percent of all restraints occur in grades 1-4 across SY2018–SY2022. Approximately 91 percent of these restraint cases involved students with disabilities, despite them making up under 10 percent of all students. There have also been reported instances in which school security personnel, including peace officers, pepper spray and handcuff young students in front of their peers and teachers. This legislation will keep children and peace officers safe from physical and emotional trauma in the classroom, and prevent students from being criminalized early in life. Research has found that restraints have been correlated with developmental issues in children, including difficulty sleeping, learning, building relationships, and developing trust in authority figures.

This legislation relieves peace officers and school security personnel from the undue responsibility of deciding when it is appropriate to use restraints or chemical irritants on disruptive children by prohibiting their use of restraints or chemical irritants on students under 10 years old, except in cases where the student poses a risk of harm to themselves or others. Research has found that there is a positive correlation between cases involving children and officer development of post-traumatic stress disorder. Limiting traumatic interactions between officers and children is as beneficial to children as it is to officers.

By regulating the use of restraints, schools will be able to provide safer environments, especially in light of the dangers and significance of restraints.

S.B. 133 amends the education code to prohibit school security personnel and peace officers from physically restraining or using chemical irritant spray on students 10 years or younger, unless the student poses a serious risk of harm to themselves or another person. This rule would apply on school property or at a school-sponsored or school related event.

S.B. 133 takes effect immediately if it receives a two-thirds vote in both chambers. If it does not receive the vote necessary for immediate effect, S.B. 133 takes effect September 1, 2023.

As proposed, S.B. 133 amends current law relating to prohibiting the physical restraint of or use of chemical irritants on certain public school students by peace officers and school security personnel under certain circumstances.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 1 (Section 37.0021, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 37.0021, Education Code, by amending Subsection (d) and adding Subsection (j), as follows:

(d) Requires the commissioner of education, subject to Subsection (j), by rule to adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A (Special Education Program), Chapter 29 (Educational Programs).

(j) Prohibits a peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or a school-related activity from restraining or using a chemical irritant spray on a student 10 years of age or younger unless the student poses a serious risk of harm to the student or another person.

SECTION 2. Effective date: upon passage or September 1, 2023.