By:  Nichols, et al. S.B. No. 11

(In the Senate - Filed March 3, 2023; March 7, 2023, read first time and referred to Committee on Education; April 17, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 11, Nays 0; April 17, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Creighton         X

Campbell             X

Bettencourt          X

Birdwell                       X

Flores               X

King                           X

LaMantia             X

Menéndez             X

Middleton            X

Parker               X

Paxton               X

Springer             X

West                 X

COMMITTEE SUBSTITUTE FOR S.B. No. 11 By:  Paxton

A BILL TO BE ENTITLED

AN ACT

relating to measures for ensuring safety and security in public schools, including measures related to certain student records and truant conduct and active shooter training for certain peace officers.

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

SECTION 1.  Section 7.028(a), Education Code, is amended to read as follows:

(a)  Except as provided by Section 21.006(k), 22.093(l), 22.096, 28.006, 29.001(5), 29.010(a), 33.006(h), 37.1083, 37.1084, 38.003, or 39.003, the agency may monitor compliance with requirements applicable to a process or program provided by a school district, campus, program, or school granted charters under Chapter 12, including the process described by Subchapter F, Chapter 11, or a program described by Subchapter B, C, D, E, F, H, or I, Chapter 29, or Subchapter A, Chapter 37, only as necessary to ensure:

(1)  compliance with federal law and regulations;

(2)  financial accountability, including compliance with grant requirements;

(3)  data integrity for purposes of:

(A)  the Public Education Information Management System (PEIMS); and

(B)  accountability under Chapters 39 and 39A; and

(4)  qualification for funding under Chapter 48.

SECTION 2.  Subchapter B, Chapter 8, Education Code, is amended by adding Section 8.064 to read as follows:

Sec. 8.064.  SCHOOL SAFETY SUPPORT. (a) A regional education service center shall act as a school safety resource for school districts and open-enrollment charter schools in the region served by the center. The center may assist a school district or open-enrollment charter school directly or in collaboration with the Texas School Safety Center, as applicable:

(1)  in developing and implementing a multihazard emergency operations plan under Section 37.108;

(2)  in establishing a school safety and security committee under Section 37.109;

(3)  in conducting emergency school drills and exercises;

(4)  in addressing deficiencies in campus security identified by a school safety review team under Section 37.1084; and

(5)  by providing guidance on any other matter relating to school safety and security.

(b)  A regional education service center shall provide assistance as necessary to the region's school safety review team established under Section 37.1084.

SECTION 3.  Section 12.104(b), Education Code, as amended by Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B. 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

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

(1)  a provision of this title establishing a criminal offense;

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

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

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

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

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

(D)  accelerated instruction under Section 28.0211;

(E)  high school graduation requirements under Section 28.025;

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

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

(H)  prekindergarten programs under Subchapter E or E-1, Chapter 29, except class size limits for prekindergarten classes imposed under Section 25.112, which do not apply;

(I)  extracurricular activities under Section 33.081;

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

(K)  health and safety under Chapter 38;

(L)  the provisions of Subchapter A, Chapter 39;

(M)  public school accountability and special investigations under Subchapters A, B, C, D, F, G, and J, Chapter 39, and Chapter 39A;

(N)  the requirement under Section 21.006 to report an educator's misconduct;

(O)  intensive programs of instruction under Section 28.0213;

(P)  the right of a school employee to report a crime, as provided by Section 37.148;

(Q)  bullying prevention policies and procedures under Section 37.0832;

(R)  the right of a school under Section 37.0052 to place a student who has engaged in certain bullying behavior in a disciplinary alternative education program or to expel the student;

(S)  the right under Section 37.0151 to report to local law enforcement certain conduct constituting assault or harassment;

(T)  a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

(U)  establishment of residency under Section 25.001;

(V)  school safety requirements under Sections 37.108, 37.1081, 37.1082, 37.1083, 37.1084, 37.1085, 37.109, 37.113, 37.114, 37.1141, 37.115, 37.207, and 37.2071;

(W)  the early childhood literacy and mathematics proficiency plans under Section 11.185;

(X)  the college, career, and military readiness plans under Section 11.186; and

(Y) [~~(X)~~]  parental options to retain a student under Section 28.02124.

SECTION 4.  Section 25.002(a), Education Code, is amended to read as follows:

(a)  If a parent or other person with legal control of a child under a court order enrolls the child in a public school, the parent or other person or the school district in which the child most recently attended school shall furnish to the school district:

(1)  the child's birth certificate or another document suitable as proof of the child's identity;

(2)  a copy of the child's records from the school the child most recently attended if the child has been previously enrolled in a school in this state or another state, including for a child who most recently attended a public school in this state, a copy of the child's disciplinary record and any threat assessment involving the child's behavior conducted under Section 37.115; and

(3)  a record showing that the child has the immunizations as required under Section 38.001, in the case of a child required under that section to be immunized, proof as required by that section showing that the child is not required to be immunized, or proof that the child is entitled to provisional admission under that section and under rules adopted under that section.

SECTION 5.  Section 25.036, Education Code, is amended by adding Subsection (c) to read as follows:

(c)  In the case of a transfer under this section, a child's school district of residence shall provide the receiving district with the child's disciplinary record and any threat assessment involving the child's behavior conducted under Section 37.115.

SECTION 6.  Section 25.095(a), Education Code, is amended to read as follows:

(a)  A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school, without excuse under Section 25.087, on six [~~10~~] or more days or parts of days within an eight-week [~~a six-month~~] period in the same school year:

(1)  the student's parent is subject to prosecution under Section 25.093; and

(2)  the student is subject to referral to a truancy court for truant conduct under Section 65.003(a), Family Code.

SECTION 7.  Section 25.0951(a), Education Code, is amended to read as follows:

(a)  If a student fails to attend school without excuse on six [~~10~~] or more days or parts of days within an eight-week [~~a six-month~~] period in the same school year, a school district shall within 10 school days of the student's sixth [~~10th~~] absence refer the student to a truancy court for truant conduct under Section 65.003(a), Family Code.

SECTION 8.  Section 37.108, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (h) to read as follows:

(a)  Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center in conjunction with the governor's office of homeland security, [~~and~~] the commissioner of education, and the [~~or~~] commissioner of higher education[~~, as applicable~~]. The plan must provide for:

(1)  training in responding to an emergency for district employees, including substitute teachers;

(2)  measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;

(3)  measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;

(4)  if the plan applies to a school district, mandatory school drills and exercises, including drills required under Section 37.114, to prepare district students and employees for responding to an emergency;

(5)  measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; [~~and~~]

(6)  the implementation of a safety and security audit as required by Subsection (b); and

(7)  any other requirements established by the Texas School Safety Center in consultation with the agency.

(b)  At least once every three years, each school district or public junior college district shall conduct a safety and security audit of the district's facilities. A [~~To the extent possible, a~~] district shall follow safety and security audit procedures developed by the Texas School Safety Center in coordination with the commissioner of education or commissioner of higher education, as applicable, or a person included in the registry established by the Texas School Safety Center under Section 37.2091.

(h)  The Texas School Safety Center and the agency shall provide school safety-related data collected by the center or agency to each other on request.

SECTION 9.  Section 37.1081(a), Education Code, is amended to read as follows:

(a)  If the board of trustees of a school district receives notice of noncompliance under Section 37.207(e) or 37.2071(d) or (g) [~~37.2071(g)~~], the board shall hold a public hearing to notify the public of:

(1)  the district's failure to:

(A)  submit or correct deficiencies in a multihazard emergency operations plan; or

(B)  report the results of a safety and security audit to the Texas School Safety Center as required by law;

(2)  the dates during which the district has not been in compliance; and

(3)  the names of each member of the board of trustees and the superintendent serving in that capacity during the dates the district was not in compliance.

SECTION 10.  Subchapter D, Chapter 37, Education Code, is amended by adding Sections 37.1083, 37.1084, and 37.1085 to read as follows:

Sec. 37.1083.  AGENCY MONITORING OF SCHOOL DISTRICT SAFETY AND SECURITY REQUIREMENTS. (a) The agency shall monitor the implementation and operation of requirements related to school district safety and security, including school district:

(1)  multihazard emergency operations plans; and

(2)  safety and security audits.

(b)  The agency shall establish an office of school safety and security within the agency that consists of individuals with substantial expertise and experience in school or law enforcement safety and security operations and oversight at the local, state, or federal level to coordinate the agency's monitoring of school district safety and security requirements under this section. The director of the office is appointed by the governor and confirmed by the senate and must report directly to the commissioner.

(c)  The agency shall, in coordination with the Texas School Safety Center, provide technical assistance to school districts to support the implementation and operation of safety and security requirements.

(d)  As part of the technical assistance provided under Subsection (c), the agency shall conduct a detailed vulnerability assessment of each school district on a random basis determined by the agency once every four years. The assessment must:

(1)  assess facility access controls, emergency operations procedures, and other school safety requirements; and

(2)  to the greatest extent practicable, coincide with the safety and security audit required under Section 37.108.

(e)  The agency shall use a rubric developed by the office of school safety and security in collaboration with the Texas School Safety Center to conduct a vulnerability assessment of a school district under Subsection (d).

(f)  On completion of a vulnerability assessment under Subsection (d), the agency shall provide to the superintendent and school safety and security committee established under Section 37.109 for the applicable school district a report on the results of the assessment that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the agency.

(g)  The agency may engage a third party as necessary to enable the agency to monitor the implementation and operation of school district safety and security requirements under this section.

(h)  The agency may require a school district to submit information necessary for the agency to monitor the implementation and operation of school district safety and security requirements under this section, including:

(1)  notice of an event requiring a district's emergency response including the discovery of a firearm on a campus; and

(2)  information regarding the district's response and use of emergency operations procedures during an event described by Subdivision (1).

(i)  The agency may review school district records as necessary to ensure compliance with this subchapter and Subchapter G.

(j)  Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements under this section is confidential under Sections 418.177 and 418.181, Government Code, and not subject to disclosure under Chapter 552, Government Code.

(k)  The commissioner may adopt rules as necessary to administer this section.

Sec. 37.1084.  REGIONAL SCHOOL SAFETY REVIEW TEAMS. (a) In this section:

(1)  "Office" means the office of school safety and security established under Section 37.1083.

(2)  "Team" means a school safety review team established under this section.

(b)  The office shall establish a school safety review team in each region served by a regional education service center. A team shall annually conduct on-site general intruder detection audits of school district campuses in the team's region. In conducting an intruder detection audit, a team must:

(1)  use a rubric developed by the office in consultation with the Texas School Safety Center;

(2)  not later than the seventh day before the date of a scheduled audit, notify the superintendent of the school district in which the campus being audited is located; and

(3)  on completion of the audit, provide to the superintendent and school safety and security committee established under Section 37.109 for the school district in which the campus is located a report on the results of the audit that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the team.

(c)  A regional education service center shall provide support as necessary to assist the region's team in conducting intruder detection audits under this section.

(d)  A report produced by a team under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 37.1085.  ASSIGNMENT OF CONSERVATOR FOR NONCOMPLIANCE WITH SCHOOL SAFETY AND SECURITY REQUIREMENTS. (a) The commissioner may assign a conservator under Chapter 39A if a school district fails to:

(1)  submit to any required monitoring, assessment, or audit under Section 37.1083 or 37.1084;

(2)  comply with applicable safety and security requirements; or

(3)  address in a reasonable time period, as determined by commissioner rule, issues raised by the agency's monitoring, assessment, or audit of the district under Section 37.1083 or 37.1084.

(b)  A conservator assigned to a district under this section may exercise the powers and duties of a conservator under Section 39A.003 only to correct a failure identified under Subsection (a).

SECTION 11.  Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.1131 to read as follows:

Sec. 37.1131.  NOTIFICATION REGARDING VIOLENT ACTIVITY. (a) The agency shall develop model standards for providing notice regarding violent activity that has occurred or is being investigated at a school district campus or other district facility or at a district-sponsored activity to parents, guardians, and other persons standing in parental relation to students who are assigned to the campus, regularly use the facility, or are attending the activity, as applicable. The standards must:

(1)  include electronic notification through text messaging and e-mail;

(2)  provide an option for real-time notification; and

(3)  protect student privacy.

(b)  Each school district shall adopt a policy for providing notice described by Subsection (a) in a manner that meets the standards adopted under that subsection.

SECTION 12.  Sections 37.2071(b), (c), (d), (f), (g), and (h), Education Code, are amended to read as follows:

(b)  A school district or public junior college district shall submit its multihazard emergency operations plan to the center:

(1)  not later than the 30th day after the date [~~on request of~~] the center requests the submission; and

(2)  in accordance with the center's review cycle developed under Subsection (a).

(c)  The center shall review each district's multihazard emergency operations plan submitted under Subsection (b) and:

(1)  verify the plan meets the requirements of Section 37.108; or

(2)  provide the district with written notice:

(A)  describing the plan's deficiencies; [~~and~~]

(B)  including specific recommendations to correct the deficiencies; and

(C)  stating that the district must correct the deficiencies in its plan and resubmit the revised plan to the center.

(d)  If a district fails to submit its multihazard emergency operations plan to the center for review following a notification by the center that the district has failed to submit the district's plan, the center shall provide the district with written notice stating that the district must hold a public hearing under Section 37.1081[~~:~~

[~~(1)  has failed to submit a plan; and~~

[~~(2)  must submit a plan to the center for review and verification~~].

(f)  If one month [~~three months~~] after the date of initial notification of a plan's deficiencies under Subsection (c)(2) [~~or failure to submit a plan under Subsection (d)~~] a district has not corrected the plan deficiencies [~~or has failed to submit a plan~~], the center shall provide written notice to the district and agency that the district has not complied with the requirements of this section and must comply immediately.

(g)  If a school district still has not corrected the plan deficiencies three [~~or has failed to submit a plan six~~] months after the date of initial notification under Subsection (c)(2) [~~or (d)~~], the center shall provide written notice to the school district stating that the district must hold a public hearing under Section 37.1081.

(h)  If a school district has failed to submit a plan, the notice required by Subsection (d) [~~(g)~~] must state that the commissioner is authorized to appoint a conservator under Section 37.1082.

SECTION 13.  Section 37.2091, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  A school district must confirm that a person is included in the registry established under Subsection (b) before the district may engage the person to provide school safety or security consulting services to the district.

SECTION 14.  Section 48.115, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (b-1) to read as follows:

(a)  Except as provided by Subsection (a-1), [~~From funds appropriated for that purpose, the commissioner shall provide to~~] a school district is entitled to an annual allotment equal to the sum of the following amounts or a greater [~~in the~~] amount provided by appropriation:

(1)  $16,800 for each campus with 1,100 or more enrolled students;

(2)  $16,000 for each campus with 600 to 1,099 enrolled students;

(3)  $15,500 for each campus with 350 to 599 enrolled students; and

(4)  $15,000 for each campus with 349 or fewer enrolled students [~~for each student in average daily attendance~~].

(a-1)  A school district campus that provides only virtual instruction or utilizes only facilities not subject to the district's control is not included for purposes of determining a school district's allotment under Subsection (a).

(b)  Funds allocated under this section must be used to improve school safety and security, including costs associated with:

(1)  securing school facilities, including:

(A)  improvements to school infrastructure;

(B)  the use or installation of physical barriers; and

(C)  the purchase and maintenance of:

(i)  security cameras or other security equipment; and

(ii)  technology, including communications systems or devices, that facilitates communication and information sharing between students, school personnel, and first responders in an emergency;

(2)  providing security for the district, including:

(A)  employing school district peace officers, private security officers, and school marshals; and

(B)  collaborating with local law enforcement agencies, such as entering into a memorandum of understanding for the assignment of school resource officers to schools in the district;

(3)  school safety and security measures [~~training and planning~~], including:

(A)  active shooter and emergency response training;

(B)  prevention and treatment programs relating to addressing adverse childhood experiences; and

(C)  the prevention, identification, and management of emergencies and threats, using evidence-based, effective prevention practices and including:

(i)  providing licensed counselors, social workers, and individuals trained in restorative discipline and restorative justice practices;

(ii)  providing mental health personnel and support;

(iii)  providing behavioral health services;

(iv)  establishing threat reporting systems; and

(v)  developing and implementing programs focused on restorative justice practices, culturally relevant instruction, and providing mental health support; and

(4)  providing programs related to suicide prevention, intervention, and postvention.

(b-1)  The agency may designate certain technologies that a school district, in using funds allocated under this section, may purchase only from a vendor approved by the agency.

SECTION 15.  Section 65.003(a), Family Code, is amended to read as follows:

(a)  A child engages in truant conduct if the child is required to attend school under Section 25.085, Education Code, and fails to attend school on six [~~10~~] or more days or parts of days within an eight-week [~~a six-month~~] period in the same school year.

SECTION 16.  Section 1701.253, Occupations Code, is amended by adding Subsection (q) to read as follows:

(q)  As part of the minimum curriculum requirements, the commission shall require an officer to complete a training program on responding to an active shooter as provided by the Advanced Law Enforcement Rapid Response Training Center at Texas State University--San Marcos, or a similar organization approved by the commission. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter unless the officer completes the program as part of the officer's basic training course. Completion of a training program under this subsection satisfies any other requirement for the officer to complete a training program on responding to active shooters, including under Section 37.0812(a), Education Code.

SECTION 17.  Subchapter F, Chapter 1701, Occupations Code, is amended by adding Section 1701.2635 to read as follows:

Sec. 1701.2635.  ACTIVE SHOOTER TRAINING FOR OFFICERS AT PUBLIC SCHOOLS. (a) This section applies to a:

(1)  school district peace officer as defined by Section 1701.262; and

(2)  school resource officer as defined by Section 1701.601.

(b)  An officer to whom this section applies shall complete a one-time training program on responding to an active shooter as provided by the Advanced Law Enforcement Rapid Response Training Center at Texas State University--San Marcos, or a similar organization approved by the commission, before or within two years of beginning to provide law enforcement services at a public primary or secondary school.

(c)  Completion of a training program under this section satisfies any other requirement that the officer complete a training program on responding to active shooters, including under Section 37.0812(a), Education Code.

SECTION 18.  (a) As soon as practicable after the effective date of this Act, the Texas Education Agency shall establish the office of school safety and security and the governor shall appoint the director of that office as required by Section 37.1083, Education Code, as added by this Act.

(b)  As soon as practicable after the office of school safety and security has been established, the office shall establish school safety review teams in each region served by a regional education service center as required by Section 37.1084, Education Code, as added by this Act.

SECTION 19.  (a) As soon as practicable after the effective date of this Act, the Texas Commission on Law Enforcement shall adopt rules to implement Sections 1701.253(q) and 1701.2635, Occupations Code, as added by this Act.

(b)  The minimum curriculum requirements under Section 1701.253(q), Occupations Code, as added by this Act, apply only to an officer who first begins to satisfy those requirements on or after January 1, 2024.

(c)  Notwithstanding Section 1701.2635, Occupations Code, as added by this Act, an officer who holds a license under Chapter 1701, Occupations Code, on September 1, 2023, and to whom that section applies shall complete the training program required by that section not later than September 1, 2025.

SECTION 20.  To the extent of any conflict, this Act prevails over another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 21.  Sections 7.028, 25.095, and 25.0951, Education Code, as amended by this Act, Chapter 37, Education Code, as amended by this Act, and Section 65.003, Family Code, as amended by this Act, apply beginning with the 2023-2024 school year.

SECTION 22.  (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

(b)  Section 48.115, Education Code, as amended by this Act, takes effect September 1, 2023.

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