

By: González of El Paso

H.B. No. 133

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of certain restraints on students enrolled in public schools who receive special education services.

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

SECTION 1. Section 37.0021(d), Education Code, is amended to read as follows:

(d) The commissioner by rule shall 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, Chapter 29. A procedure adopted under this subsection must:

(1) be consistent with:

(A) professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) relevant health and safety standards;

(2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique; ~~and~~

(3) require a school district to:

(A) provide written notification to the student's parent or person standing in parental relation to the

student for each use of restraint that includes:

- (i) the name of the student;
- (ii) the name of the district employee or volunteer or independent contractor of the district who administered the restraint;
- (iii) the date of the restraint;
- (iv) the time that the restraint started and ended;
- (v) the location of the restraint;
- (vi) the nature of the restraint;
- (vii) a description of the activity in which the student was engaged immediately preceding the use of the restraint;
- (viii) the behavior of the student that prompted the restraint;
- (ix) any efforts made to de-escalate the situation and any alternatives to restraint that were attempted;
- (x) if the student has a behavior improvement plan or a behavioral intervention plan, whether the plan may need to be revised as a result of the behavior that led to the restraint; and
- (xi) if the student does not have a behavior improvement plan or a behavioral intervention plan, information on the procedure for the student's parent or person standing in parental relation to the student to request an admission, review, and dismissal committee meeting to discuss the possibility of conducting a functional behavioral assessment of the student and

1 developing a plan for the student;

2 (B) include in a student's special education
3 eligibility school records:

4 (i) a copy of the written notification
5 provided to the student's parent or person standing in parental
6 relation to the student under Paragraph (A);

7 (ii) information on the method by which the
8 written notification was sent to the parent or person; and

9 (iii) the contact information for the
10 parent or person to whom the district sent the notification; and

11 (C) if the student has a behavior improvement
12 plan or behavioral intervention plan, document each use of time-out
13 prompted by a behavior of the student specified in the student's
14 plan, including a description of the behavior that prompted the
15 time-out; and

16 (4) prohibit a district employee or volunteer or an
17 independent contractor of a district from:

18 (A) using any variation of a floor or ground
19 restraint or other technique that results in immobilization of the
20 student in a prone or supine position; and

21 (B) fully taking a student down to the floor or
22 ground, except when necessary to assist a student with a health
23 emergency.

24 SECTION 2. Section 37.0023(b), Education Code, is amended
25 to read as follows:

26 (b) A school district or school district employee or
27 volunteer or an independent contractor of a school district may not

1 apply an aversive technique, or by authorization, order, or
2 consent, cause an aversive technique to be applied, to a student.
3 Nothing in this section authorizes the use of a restraint
4 prohibited by Section 37.0021(d) by a district employee or
5 volunteer or an independent contractor of a district on a student
6 with a disability receiving special education services under
7 Subchapter A, Chapter 29.

8 SECTION 3. This Act applies beginning with the 2023-2024
9 school year.

10 SECTION 4. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2023.