By: Hull

H.B. No. 459

A BILL TO BE ENTITLED

AN ACT

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.

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

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

(d) Subject to Subsection (j), 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
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 developing a plan for the student;

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

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

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

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

(C) if the student has a behavior improvement plan or behavioral intervention plan, document each use of time-out prompted by a behavior of the student specified in the student's plan, including a description of the behavior that prompted the time-out.

(j) A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity may not restrain or use 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. 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
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1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2023.