

By: Hull

H.B. No. 459

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting the physical restraint of or use of
3 chemical irritants on certain public school students by peace
4 officers and school security personnel under certain
5 circumstances.

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

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

10 (d) Subject to Subsection (j), the ~~[The]~~ commissioner by
11 rule shall adopt procedures for the use of restraint and time-out by
12 a school district employee or volunteer or an independent
13 contractor of a district in the case of a student with a disability
14 receiving special education services under Subchapter [A](#), Chapter
15 [29](#). A procedure adopted under this subsection must:

16 (1) be consistent with:

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

20 (B) relevant health and safety standards;

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

1 (3) require a school district to:

2 (A) provide written notification to the
3 student's parent or person standing in parental relation to the
4 student for each use of restraint that includes:

5 (i) the name of the student;

6 (ii) the name of the district employee or
7 volunteer or independent contractor of the district who
8 administered the restraint;

9 (iii) the date of the restraint;

10 (iv) the time that the restraint started
11 and ended;

12 (v) the location of the restraint;

13 (vi) the nature of the restraint;

14 (vii) a description of the activity in
15 which the student was engaged immediately preceding the use of the
16 restraint;

17 (viii) the behavior of the student that
18 prompted the restraint;

19 (ix) any efforts made to de-escalate the
20 situation and any alternatives to restraint that were attempted;

21 (x) if the student has a behavior
22 improvement plan or a behavioral intervention plan, whether the
23 plan may need to be revised as a result of the behavior that led to
24 the restraint; and

25 (xi) if the student does not have a behavior
26 improvement plan or a behavioral intervention plan, information on
27 the procedure for the student's parent or person standing in

1 parental relation to the student to request an admission, review,
2 and dismissal committee meeting to discuss the possibility of
3 conducting a functional behavioral assessment of the student and
4 developing a plan for the student;

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

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

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

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

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

19 (j) A peace officer performing law enforcement duties or
20 school security personnel performing security-related duties on
21 school property or at a school-sponsored or school-related activity
22 may not restrain or use a chemical irritant spray on a student 10
23 years of age or younger unless the student poses a serious risk of
24 harm to the student or another person.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 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.