

By: Dutton

H.B. No. 4148

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of students between public schools.

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

SECTION 1. Section 25.001, Education Code, is amended by amending Subsection (h) and adding Subsection (k) to read as follows:

(h) In addition to the penalty provided by Section 37.10, Penal Code, a person who knowingly falsifies information on a form required for enrollment of a student in a school district is liable to the district if the student is not eligible for enrollment in the district but is enrolled on the basis of the false information. The person is liable, for the period during which the ineligible student is enrolled, for ~~[the greater of:~~

~~[(1) the maximum tuition fee the district may charge under Section 25.038, or~~

~~[(2)] the amount the district has budgeted for each student as maintenance and operating expenses.~~

(k) Notwithstanding any other law, a school district shall allow a student who qualifies for admission under this subchapter to enroll at the campus nearest to the student's residence offering the appropriate grade level, regardless of whether the student resides in the attendance zone of that district or campus and provided that the campus has capacity, as determined under Section 25.046.

SECTION 2. Section 25.036, Education Code, is amended to read as follows:

Sec. 25.036. TRANSFER OF STUDENT. (a) Any child, other than a high school graduate, who is younger than 21 years of age and eligible for enrollment on September 1 of any school year may apply to transfer ~~[annually]~~ from the child's school district ~~[of residence]~~ to any public school ~~[another district]~~ in this state that offers the appropriate grade level and has capacity, as determined under Section 25.046 ~~[if both the receiving district and the applicant parent or guardian or person having lawful control of the child jointly approve and timely agree in writing to the transfer]~~.

(b) Before the beginning of each school year, a school district shall:

(1) require a transfer applicant under Subsection (a) to complete and submit the district's transfer application form by a reasonable deadline established by the district; and

(2) admit each eligible transfer applicant until enrollment at the campus reaches capacity, as determined under Section 25.046.

(c) If a school district receives more eligible transfer applications for a district campus or a specific grade level at a district campus than the district has capacity for at that campus or in that grade level, as determined under Section 25.046, the district shall fill the available positions by lottery. A school district shall offer to a student who the district does not enroll due to lack of capacity an available position, if any, in the

1 appropriate grade level at another district campus.

2 (d) A school district that must fill positions by lottery
3 under Subsection (c) shall, in developing the lottery system,
4 ensure priority is given to an applicant who:

5 (1) resides within the district;

6 (2) is enrolled as a transfer student in the district
7 at another campus but has completed the highest grade level offered
8 at that campus;

9 (3) is a sibling of a student currently enrolled at a
10 district campus;

11 (4) is applying to transfer to a campus that is the
12 campus geographically nearest to the student's residence that
13 offers the appropriate grade level, regardless of whether the
14 student resides in the attendance zone of that campus;

15 (5) receives special education services under
16 Subchapter A, Chapter 29;

17 (6) is in foster care; or

18 (7) is a dependent of a person who is employed at the
19 campus to which the student is applying to transfer.

20 (e) A school district that receives more eligible transfer
21 applications for a district campus or a specific grade level at a
22 district campus than the district may enroll at the capacity
23 determined under Section 25.046 for that campus or grade level
24 shall establish and maintain a waiting list for transfer applicants
25 who are not admitted.

26 (f) If a position at a school district campus with a
27 waitlist under Subsection (e) becomes available after the start of

1 the school year, the district shall first admit transfer applicants
2 according to that waitlist and then admit any additional transfer
3 applicants in the order in which those additional transfer
4 applications are received.

5 (g) A school district may not deny a student's transfer
6 application unless:

7 (1) the requested district or campus is determined to
8 be at capacity under Section 25.046; or

9 (2) the student requesting the transfer is, at the
10 time of the application:

11 (A) expelled or suspended from the student's
12 school;

13 (B) placed in a disciplinary alternative
14 education program or a juvenile justice alternative education
15 program; or

16 (C) subject to an ongoing disciplinary
17 proceeding under a district's student code of conduct adopted under
18 Section 37.001, which may lead to the student's:

19 (i) out-of-school suspension;

20 (ii) placement in a disciplinary
21 alternative education program or juvenile justice alternative
22 education program; or

23 (iii) expulsion.

24 (h) Notwithstanding any other law, a transfer applicant
25 under this section may only appeal a denial of the applicant's
26 transfer application as provided by this subsection. The parent of
27 or person standing in parental relation to a student may appeal a

denial of the student's transfer application by submitting the appeal not later than the 10th day after the date of notification of the application denial to the board of trustees of the receiving school district. The receiving school district must consider the appeal at the board's next regularly scheduled meeting and notify the parent of the board's decision not later than the 10th day after the date of that meeting. If the receiving school district board of trustees denies the appeal, the parent of or person standing in parental relation to the student may appeal that denial by submitting the appeal to the commissioner not later than the 10th day after the date of notification of the board's denial of the appeal. The commissioner must provide a decision regarding an appeal received under this subsection not later than the 90th day after the date the commissioner receives notice of the appeal. The commissioner must allow the appealing person and a representative from the receiving school district to provide comment to the commissioner regarding the appeal. An appeal under this subsection must be submitted on a form approved by the commissioner.

(i) A student who transfers to another school district or district campus as provided by this section may remain at the receiving campus until that student completes the highest grade level offered at the campus.

(j) Once a student who transfers to another school district or district campus as provided by this section completes the highest grade level offered at the receiving campus, the student must reapply to continue attending school in the receiving district. The district must prioritize admitting the student as

provided by Subsection (d).

(k) A school district may not deny admission to a student who resides in the attendance zone of the district, including a student who attends an open-enrollment charter school in the district, for the purpose of accepting a transfer applicant under this section.

(l) A school district campus that uses a selective admissions process in accordance with a specific instructional model or performing arts focus may retain that selective admissions process if the admissions process prohibits discrimination on the basis of a student's:

(1) sex, national origin, ethnicity, religion, disability, socioeconomic status, or athletic ability;

(2) disciplinary record, except as permitted under Subsection (g); or

(3) assigned school district or district campus based on the attendance zone of the student's residence.

(m) The commissioner shall adopt rules necessary to implement this section, including rules establishing:

(1) an admissions lottery, as described by Subsection (c), and a waitlist as described by Subsection (e);

(2) procedures to ensure that selective admissions processes at applicable open-enrollment district campuses comply with Subsection (l); and

(3) procedures to ensure this section complies with state and federal law regarding confidentiality of student medical or educational information, including the Health Insurance

1 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d
2 et seq.) and the Family Educational Rights and Privacy Act of 1974
3 (20 U.S.C. Section 1232g). ~~[A transfer agreement under this section~~
4 ~~shall be filed and preserved as a receiving district record for~~
5 ~~audit purposes of the agency.]~~

6 SECTION 3. Subchapter B, Chapter 25, Education Code, is
7 amended by adding Sections 25.046 and 25.047 to read as follows:

8 Sec. 25.046. TRANSFER CAPACITY; DISTRICT POLICY. (a)
9 Except as provided by Subsection (c), each year on the first day of
10 January, April, July, and October, the board of trustees of a school
11 district shall determine the capacity of each district campus and
12 the capacity of each grade level offered at each campus. For
13 purposes of this section, the capacity of a district campus or a
14 grade level at that campus is the total number of students that may
15 be admitted at the campus or at that grade level, as applicable,
16 less the students who are currently enrolled at that campus or at
17 that grade level, as applicable. Based on the board's
18 determination of campus or grade level capacity and current student
19 enrollment, the district shall identify the number of available
20 positions at each campus and for each grade level. In determining
21 campus and grade level capacity, the district shall consult the
22 most recent district facility plan, including a facility plan
23 created as part of a district bond proposal.

24 (b) The district shall post for each campus in the district
25 on the district's Internet website, if the district maintains a
26 website, the most recent determination of campus and grade level
27 capacity. If the district does not maintain a website, the district

1 shall make the information required under this subsection available
2 to the public at an administrative office of the district.

3 (c) A school district is not required to determine the
4 capacity of a new instructional facility, as defined by Section
5 48.152, in the first school year in which students attend the new
6 instructional facility.

7 (d) The board of trustees of a school district shall adopt a
8 written policy that meets the requirements adopted by the
9 commissioner under Subsection (f) for the admission of a transfer
10 applicant under this subchapter. The board shall make the policy
11 available to the public in the same manner the district makes
12 available a district's determination of campus and grade level
13 capacity under Subsection (b). The policy must include:

14 (1) adoption of a transfer application form;

15 (2) the provision of the address of the district
16 administrative office where a person may access the district's
17 determination of campus and grade level capacity, if the district
18 does not maintain an Internet website; and

19 (3) the provision of information regarding available
20 options for transportation provided by the district or in the
21 community.

22 (e) The agency shall establish and maintain on the agency's
23 Internet website a publication that includes each school district's
24 policy adopted under this section and each district's campus or
25 grade level capacity determinations under Subsection (a).

26 (f) The commissioner shall adopt rules and prescribe
27 procedures necessary to implement this section, including by

developing any necessary model policies, forms, or templates for use by a school district in complying with Subsection (d). In adopting rules to implement this section, the commissioner shall consider feedback from districts and shall prioritize:

- (1) flexibility of access for students;
- (2) encouraging districts to accommodate student transfers; and
- (3) preventing districts from discouraging student transfers.

Sec. 25.047. REPORTING AND AUDIT REQUIREMENTS. (a) Subject to Subsection (b), each school district shall annually submit not later than the last Friday in October of each school year a report to the agency regarding the transfer of students to and from the district during the previous school year. The report must include:

- (1) for each district campus, the quarterly campus and grade level capacity determinations under Section 25.046;
- (2) for each campus, the number of transfer applications for transfers to that campus the district received, the number of applications that were granted, and the number of applications that were denied, including the reason for the denial, during the preceding school year;
- (3) the information described by Subdivisions (1) and (2) aggregated for all campuses in the district; and
- (4) for the purposes of demographic analysis, any information required by the commissioner as necessary to identify each student admitted to or denied admission to a campus in the

district who is or was previously enrolled in a public school in this state.

(b) A school district with only one campus serving each grade level is exempt from Subsection (a)(3).

(c) Not later than March 15 of each year, the agency shall post on the agency's Internet website a report on the transfer and assignment of students. The report must include:

(1) a summary of school district admission practices relating to student transfer admissions;

(2) for the state, the aggregated data reported under Subsection (a);

(3) for each district, the aggregated data reported under Subsection (a);

(4) a demographic analysis of the students transferring districts;

(5) a demographic analysis of the students transferring between campuses within the same district;

(6) for each district, the number of transfer applicants seeking admission or withdrawal, showing the potential net change in enrollment; and

(7) for each district, the actual number of students who transferred into or out of the district, showing the actual net change in enrollment.

(d) Every sixth year, the agency shall publish a study of statewide transfer trends that includes:

(1) the total number of students transferring districts and of students transferring between campuses within the

1 same district;

2 (2) using data from the previous six school years, an
3 analysis at the state and district level of changes in:

4 (A) the number of school districts and campuses
5 admitting transfer students;

6 (B) the number of students transferring
7 districts; and

8 (C) the number of students transferring between
9 campuses within the same district;

10 (3) a demographic analysis of the students
11 transferring districts and of the students transferring between
12 campuses within the same district;

13 (4) using data from the previous six school years, an
14 analysis of the patterns of student movement between districts and
15 campuses, including a description of any characteristics that are
16 correlated with students transferring to or away from districts or
17 schools;

18 (5) a summary of district practices regarding
19 transportation of transfer students;

20 (6) an explanation of the reasons students choose to
21 transfer districts or campuses and the barriers faced by students
22 in transferring districts or campuses;

23 (7) an explanation of the challenges restricting
24 school districts from admitting more transfer students;

25 (8) performance outcomes for inter- and
26 intra-district transfer students, including changes in student
27 proficiency after the date of transfer; and

1 (9) the effects of inter-district transfers on test
2 scores and program offerings for sending and receiving districts.

3 (e) Each year, the agency shall randomly select 10 percent
4 of the school districts in the state and conduct an audit of each
5 district's capacity determination under Section 25.046 and of each
6 district's approved and denied transfer applications. If the
7 agency finds inaccurate reporting of capacity levels by a school
8 district, the agency shall set the capacity for the school
9 district. Districts audited during the previous two school years
10 may not be selected for audit in a school year.

11 (f) The commissioner shall adopt rules necessary to
12 implement this section.

13 SECTION 4. Section 34.007(a), Education Code, is amended to
14 read as follows:

15 (a) A board of county school trustees or a school district
16 board of trustees may establish and operate an economical public
17 school transportation system:

18 (1) in the county or district, as applicable;
19 (2) outside the county or district, as applicable, if
20 the county or school district enters into an interlocal contract as
21 provided by Chapter 791, Government Code; or

22 (3) outside the district if students enrolled in the
23 district reside outside the district and the district:

24 (A) has an active policy adopted by the board
25 that prohibits screening transfer students who reside outside the
26 district based on the student's academic performance, disciplinary
27 history, except as provided by Section 25.036(g)(2), or attendance

record, regardless of any relevant district or innovation plan adopted by the board or authorization to screen transfer students under any other authority; ~~and~~

(B) certifies that the district has:

(i) an overall performance rating of C or higher under Section 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned; and

(ii) an overall accountability score of 70 or higher for the preceding school year or the most recent school year in which a performance rating was assigned as calculated by the agency for purposes of determining the district's overall performance rating under Section 39.054; and

(C) certifies that the district or receiving campus has ~~(iii)~~ the same or better overall performance rating under Section 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned as the school district or campus from which the district will transport students under this subdivision.

SECTION 5. The following provisions of the Education Code are repealed:

- (1) Section 25.038;
- (2) Sections 25.039(b) and (c); and
- (3) Section 48.154.

SECTION 6. The changes in law made by this Act may not be interpreted to affect the authority or existing rules of the University Interscholastic League regarding the participation of a

1 student in an interscholastic competition.

2 SECTION 7. Not later than September 1, 2029, the Texas
3 Education Agency shall publish the first study of statewide
4 transfer trends required under Section 25.047, Education Code, as
5 added by this Act.

6 SECTION 8. This Act takes effect September 1, 2023.