

By: Jones of Harris

H.B. No. 5033

A BILL TO BE ENTITLED

AN ACT

relating to requiring public schools and public institutions of higher education to report data regarding certain arrests made on school or institution property.

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

SECTION 1. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.088 to read as follows:

Sec. 37.088. REPORT TO AGENCY ON CERTAIN ARRESTS. (a) Not later than the 60th day after the last day of classes for the school year, the superintendent of a school district shall electronically submit to the agency a report that contains incident-based data describing the total number of arrests made on school property by a district peace officer or school resource officer during the preceding school year.

(b) The incident-based data submitted under this section must include:

(1) information identifying:

(A) the age of the person arrested;

(B) the gender of the person arrested;

(C) the race or ethnicity of the person arrested;

(D) the nature of the offense;

(E) whether the offense occurred during regular school hours; and

(F) whether the offense occurred on school

1 property or off school property while the person was attending a
2 school-sponsored or school-related activity; and

3 (2) for each campus for which an arrest is reported, a
4 comparison of the demographics of students who were arrested to the
5 demographics of the campus's student body, disaggregated by each
6 demographic described by Subdivision (1)(A), (B), or (C).

7 (c) The data collected for a report required under this
8 section does not constitute prima facie evidence of racial
9 profiling.

10 (d) A report required under this section may not include
11 information that identifies the peace officer who made an arrest.
12 The identity of the peace officer is confidential and not subject to
13 disclosure under Chapter 552, Government Code.

14 (e) A report required under this section may not include
15 personally identifiable student information and must comply with
16 the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
17 Section 1232g).

18 (f) A school district that enters into a memorandum of
19 understanding with a local law enforcement agency for the provision
20 of a regular police presence on campus shall designate in the
21 memorandum of understanding which entity will be responsible for
22 collecting the data described by Subsection (a).

23 (g) The agency shall collect the reports required under this
24 section, compile the data, and make the data available to the
25 public. The data must be disaggregated by school district to the
26 extent possible while protecting the confidentiality of student
27 information in accordance with Subsection (e).

1 (h) The commissioner shall adopt rules as necessary to
2 implement this section, including rules requiring the reporting of
3 incident-based data using existing Public Education Information
4 Management System (PEIMS) codes for the reporting of arrests
5 described by Subsection (a).

6 SECTION 2. Subchapter E, Chapter 51, Education Code, is
7 amended by adding Section 51.222 to read as follows:

8 Sec. 51.222. REPORT TO COORDINATING BOARD ON CERTAIN
9 ARRESTS. (a) In this section:

10 (1) "Coordinating board" means the Texas Higher
11 Education Coordinating Board.

12 (2) "Institution of higher education" has the meaning
13 assigned by Section 61.003.

14 (b) Not later than September 1 of each year, an institution
15 of higher education shall electronically submit to the coordinating
16 board a report that contains incident-based data describing the
17 total number of arrests made by a peace officer commissioned by the
18 institution on property under the control and jurisdiction of the
19 institution during the preceding academic year.

20 (c) The incident-based data submitted under this section
21 must include:

22 (1) information identifying:

23 (A) the age of the person arrested;

24 (B) the gender of the person arrested;

25 (C) the race or ethnicity of the person arrested;

26 (D) the nature of the offense;

27 (E) whether the offense occurred during regular

1 instructional hours; and

2 (F) whether the offense occurred on or off
3 institutional property; and

4 (2) for each campus for which an arrest is reported, a
5 comparison of the demographics of students who were arrested to the
6 demographics of the campus's student body, disaggregated by each
7 demographic described by Subdivision (1)(A), (B), or (C).

8 (d) The data collected for a report required under this
9 section does not constitute prima facie evidence of racial
10 profiling.

11 (e) A report required under this section may not include
12 information that identifies the peace officer who made an arrest.
13 The identity of the peace officer is confidential and not subject to
14 disclosure under Chapter 552, Government Code.

15 (f) A report required under this section may not include
16 personally identifiable student information and must comply with
17 the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
18 Section 1232g).

19 (g) The coordinating board shall collect the reports
20 required under this section, compile the data, and make the data
21 available to the public. The data must be disaggregated by
22 institution of higher education to the extent possible while
23 protecting the confidentiality of student information in
24 accordance with Subsection (f).

25 (h) The coordinating board shall adopt rules as necessary to
26 implement this section.

27 SECTION 3. Section 12.104(b), Education Code, as amended by

1 Chapters 542 (S.B. 168), 887 (S.B. 1697), 915 (H.B. 3607), 974 (S.B.
2 2081), and 1046 (S.B. 1365), Acts of the 87th Legislature, Regular
3 Session, 2021, is reenacted and amended to read as follows:

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

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

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

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

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

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

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

19 (D) accelerated instruction under Section
20 28.0211;

21 (E) high school graduation requirements under
22 Section 28.025;

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

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

27 (H) prekindergarten programs under Subchapter E

1 or E-1, Chapter 29, except class size limits for prekindergarten
2 classes imposed under Section 25.112, which do not apply;

3 (I) extracurricular activities under Section
4 33.081;

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

7 (K) health and safety under Chapter 38;

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

9 (M) public school accountability and special
10 investigations under Subchapters A, B, C, D, F, G, and J, Chapter
11 39, and Chapter 39A;

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

14 (O) intensive programs of instruction under
15 Section 28.0213;

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

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

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

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

26 (T) a parent's right to information regarding the
27 provision of assistance for learning difficulties to the parent's

1 child as provided by Sections 26.004(b)(11) and 26.0081(c) and (d);

2 (U) establishment of residency under Section
3 25.001;

4 (V) school safety requirements under Sections
5 37.108, 37.1081, 37.1082, 37.109, 37.113, 37.114, 37.1141, 37.115,
6 37.207, and 37.2071;

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

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

11 (Y) ~~(X)~~ parental options to retain a student
12 under Section 28.02124; and

13 (Z) the reporting of information regarding
14 certain arrests under Section 37.088.

15 SECTION 4. (a) Section 37.088, Education Code, as added by
16 this Act, applies beginning with the 2023-2024 school year.

17 (b) Section 51.222, Education Code, as added by this Act,
18 applies beginning with the 2023-2024 academic year.

19 SECTION 5. To the extent of any conflict, this Act prevails
20 over another Act of the 88th Legislature, Regular Session, 2023,
21 relating to nonsubstantive additions to and corrections in enacted
22 codes.

23 SECTION 6. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2023.