

By: West, et al. S.B. No. 133
(Hull, González of El Paso, Cain, Moody, Lozano, et al.)

Substitute the following for S.B. No. 133:

By: Allison C.S.S.B. No. 133

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of certain restraints, chemical irritants, or a Taser or similar device on certain public school students.

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

SECTION 1. Section 37.0021(b), Education Code, is amended by adding Subdivision (5) to read as follows:

(5) "Taser" means a device manufactured, sold, or distributed by Taser International, Incorporated, that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emission of a projectile or conductive stream. The term, for purposes of this section, includes a similar device manufactured, sold, or distributed by another person.

SECTION 2. 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 ~~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:

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

4 (B) relevant health and safety standards;

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

9 (3) require a school district to:

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

13 (i) the name of the student;

14 (ii) the name of the district employee or
15 volunteer or independent contractor of the district who
16 administered the restraint;

17 (iii) the date of the restraint;

18 (iv) the time that the restraint started
19 and ended;

20 (v) the location of the restraint;

21 (vi) the nature of the restraint;

22 (vii) a description of the activity in
23 which the student was engaged immediately preceding the use of the
24 restraint;

25 (viii) the behavior of the student that
26 prompted the restraint;

27 (ix) any efforts made to de-escalate the

1 situation and any alternatives to restraint that were attempted;

2 (x) if the student has a behavior
3 improvement plan or a behavioral intervention plan, whether the
4 plan may need to be revised as a result of the behavior that led to
5 the restraint; and

6 (xi) if the student does not have a behavior
7 improvement plan or a behavioral intervention plan, information on
8 the procedure for the student's parent or person standing in
9 parental relation to the student to request an admission, review,
10 and dismissal committee meeting to discuss the possibility of
11 conducting a functional behavioral assessment of the student and
12 developing a plan for the student;

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

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

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

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

22 (C) if the student has a behavior improvement
23 plan or behavioral intervention plan, document each use of time-out
24 prompted by a behavior of the student specified in the student's
25 plan, including a description of the behavior that prompted the
26 time-out; and

27 (4) prohibit a district employee or volunteer or an

1 independent contractor of a district from using any variation of a
2 restraint or other technique that results in full body
3 immobilization of the student in a prone or supine position on the
4 floor or ground.

5 (j) A peace officer performing law enforcement duties or
6 school security personnel performing security-related duties on
7 school property or at a school-sponsored or school-related activity
8 may not restrain or use a chemical irritant spray or Taser on a
9 student enrolled in fifth grade or below unless the student poses a
10 serious risk of harm to the student or another person.

11 SECTION 3. As soon as practicable after the effective date
12 of this Act, the commissioner of education in consultation with the
13 continuing advisory committee established under Section 29.006,
14 Education Code, shall adopt rules as necessary to implement Section
15 37.0021, Education Code, as amended by this Act, including rules to
16 provide any required definitions of terms.

17 SECTION 4. This Act applies beginning with the 2023-2024
18 school year.

19 SECTION 5. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2023.