

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 24 2023
Date

Honorable Dan Patrick
President of the Senate

Honorable Dade Phelan
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 133 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Royce West
SEN. ROYCE WEST

Lacey Hull
REP. LACEY HULL

Paul Bettencourt
SEN. PAUL BETTENCOURT

Briscoe Cain
REP. BRISCOE CAIN

Brian Birdwell
SEN. BRIAN BIRDWELL

Mary Gonzalez
REP. MARY GONZALEZ

Donna Campbell
SEN. DONNA CAMPBELL

Jim Luzano
REP. JIM LUZANO

Dirce Chuy Hernandez
SEN. DIRCE CHUY HERNANDEZ

Joe Moody
REP. JOE MOODY

On the part of the Senate

On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 133

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibiting the physical restraint of or use of
3 chemical irritants or Tasers on certain public school students by
4 peace 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(b), Education Code, is amended
8 by adding Subdivision (5) to read as follows:

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

16 SECTION 2. Section 37.0021, Education Code, is amended by
17 amending Subsection (d) and adding Subsection (j) to read as
18 follows:

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

1 (1) be consistent with:

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

5 (B) relevant health and safety standards;

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

10 (3) require a school district to:

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

14 (i) the name of the student;

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

18 (iii) the date of the restraint;

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

21 (v) the location of the restraint;

22 (vi) the nature of the restraint;

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

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

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

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

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

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

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

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

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

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

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

7 SECTION 3. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2023.

Senate Bill 133
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Section 37.0021(b), Education Code, is amended.

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:

(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*

(3) 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;

HOUSE VERSION (CS)

SECTION 1. Same as Senate version.

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:

(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]*

(3) 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;

CONFERENCE

SECTION 1. Same as Senate version.

SECTION 2. Same as Senate version.

Senate Bill 133
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (CS)

CONFERENCE

- (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.

- (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; and

Senate Bill 133
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION (CS)

CONFERENCE

(4) prohibit a district employee or volunteer or an independent contractor of a district from using any variation of a restraint or other technique that results in full body immobilization of the student in a prone or supine position on the floor or ground.

(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 or Taser on a student enrolled in fifth grade or below unless the student poses a serious risk of harm to the student or another person.

(j) Same as Senate version.

(j) Same as Senate version.

No equivalent provision.

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

Same as Senate version.

No equivalent provision.

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

Same as Senate version.

SECTION 3. Effective date.

SECTION 5. Same as Senate version.

SECTION 3. Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB133** by West (Relating to prohibiting the physical restraint of or use of chemical irritants or Tasers on certain public school students by peace officers and school security personnel under certain circumstances.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

It is assumed that some schools may need to adjust local policies and provide additional training for certain staff regarding the use of restraint, chemical irritant or Taser on certain students. However, no significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, MOc, NPe, SL, KSk, ASA