

By: Price

H.B. No. 11

A BILL TO BE ENTITLED

AN ACT

1
2 relating to consideration of the mental health of public school
3 students in school planning, educator training requirements,
4 curriculum requirements, educational programs, state and regional
5 programs and services, and health care services for students.

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

7 ARTICLE 1. MENTAL HEALTH OF STUDENTS IN PUBLIC SCHOOLS

8 SECTION 1.01. Subchapter D, Chapter 11, Education Code, is
9 amended by adding Section 11.183 to read as follows:

10 Sec. 11.183. SAFE AND SUPPORTIVE SCHOOL CLIMATE ASSESSMENT
11 AND PROMOTION. (a) In this section:

12 (1) "Behavioral health disorder" means co-occurring
13 mental illness and substance abuse.

14 (2) "Mental illness" means an illness, disease, or
15 condition, other than epilepsy, dementia, substance abuse, or
16 intellectual or developmental disability, that:

17 (A) substantially impairs a person's thought,
18 perception of reality, emotional process, or judgment; or

19 (B) grossly impairs behavior as demonstrated by
20 recent disturbed behavior.

21 (3) "Substance abuse" means a patterned use of a
22 substance, including a controlled substance, as defined by Chapter
23 481, Health and Safety Code, and alcohol, in which the person
24 consumes the substance in amounts or with methods that are harmful

1 to the person's self or to others.

2 (b) The board of trustees of each independent school
3 district shall adopt a process for assessing whether the school
4 climate in the district and each campus in the district is safe and
5 supportive and promotes the social and emotional wellness of
6 students.

7 (c) The board shall adopt a policy to promote a safe and
8 supportive school climate in the district and each campus in the
9 district that includes the use of:

10 (1) instructional methods and trauma-informed
11 practices for promoting a safe and supportive school climate and
12 social and emotional wellness; and

13 (2) special programs addressing students' mental
14 illness, substance abuse, and behavioral health disorder
15 challenges.

16 SECTION 1.02. Section 11.252(a), Education Code, is amended
17 to read as follows:

18 (a) Each school district shall have a district improvement
19 plan that is developed, evaluated, and revised annually, in
20 accordance with district policy, by the superintendent with the
21 assistance of the district-level committee established under
22 Section 11.251. The purpose of the district improvement plan is to
23 guide district and campus staff in the improvement of student
24 performance for all student groups in order to attain state
25 standards in respect to the achievement indicators adopted under
26 Sections 39.053(c)(1)-(4). The district improvement plan must
27 include provisions for:

1 (1) a comprehensive needs assessment addressing
2 district student performance on the achievement indicators, and
3 other appropriate measures of performance, that are disaggregated
4 by all student groups served by the district, including categories
5 of ethnicity, socioeconomic status, sex, and populations served by
6 special programs, including students in special education programs
7 under Subchapter A, Chapter 29;

8 (2) measurable district performance objectives for
9 all appropriate achievement indicators for all student
10 populations, including students in special education programs
11 under Subchapter A, Chapter 29, and other measures of student
12 performance that may be identified through the comprehensive needs
13 assessment;

14 (3) strategies for improvement of student performance
15 that include:

16 (A) instructional methods for addressing the
17 needs of student groups not achieving their full potential;

18 (B) methods for addressing the needs of students
19 for special programs, including:

20 (i) suicide prevention programs, in
21 accordance with Subchapter G ~~[0-1]~~, Chapter 38 ~~[161, Health and~~
22 ~~Safety Code]~~, which include ~~[includes]~~ a parental or guardian
23 notification procedure;

24 (ii) conflict resolution programs;

25 (iii) violence prevention programs; and

26 (iv) dyslexia treatment programs;

27 (C) dropout reduction;

- 1 (D) integration of technology in instructional
2 and administrative programs;
- 3 (E) positive behavior [~~discipline~~] management;
- 4 (F) staff development for professional staff of
5 the district;
- 6 (G) career education to assist students in
7 developing the knowledge, skills, and competencies necessary for a
8 broad range of career opportunities; and
- 9 (H) accelerated education;
- 10 (4) strategies for providing to middle school, junior
11 high school, and high school students, those students' teachers and
12 school counselors, and those students' parents information about:
- 13 (A) higher education admissions and financial
14 aid opportunities;
- 15 (B) the TEXAS grant program and the Teach for
16 Texas grant program established under Chapter 56;
- 17 (C) the need for students to make informed
18 curriculum choices to be prepared for success beyond high school;
19 and
- 20 (D) sources of information on higher education
21 admissions and financial aid;
- 22 (5) resources needed to implement identified
23 strategies;
- 24 (6) staff responsible for ensuring the accomplishment
25 of each strategy;
- 26 (7) timelines for ongoing monitoring of the
27 implementation of each improvement strategy;

1 (8) formative evaluation criteria for determining
2 periodically whether strategies are resulting in intended
3 improvement of student performance; and

4 (9) the policy under Section 38.0041 addressing sexual
5 abuse and other maltreatment of children.

6 SECTION 1.03. Section 21.001, Education Code, is amended to
7 read as follows:

8 Sec. 21.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

9 (1) "Behavioral health disorder," "mental illness,"
10 and "substance abuse" have the meanings assigned by Section 11.183.

11 (2) "Commissioner" [~~," commissioner"~~] includes a
12 person designated by the commissioner.

13 SECTION 1.04. Section 21.044(c-1), Education Code, is
14 amended to read as follows:

15 (c-1) Any minimum academic qualifications for a certificate
16 specified under Subsection (a) that require a person to possess a
17 bachelor's degree must also require that the person receive, as
18 part of the training required to obtain that certificate,
19 instruction regarding mental health, substance abuse, and youth
20 suicide. The instruction required must:

21 (1) be provided through a program selected from the
22 list of recommended best practice-based programs established under
23 Section 38.301 [~~161.325, Health and Safety Code~~]; and

24 (2) include effective strategies [~~for teaching and~~
25 ~~intervening with students with mental or emotional disorders~~],
26 including de-escalation techniques and positive behavioral
27 interventions and supports, for teaching and intervening with

1 students with mental illness or a behavioral health disorder or who
2 engage in substance abuse.

3 SECTION 1.05. Section 21.054, Education Code, is amended by
4 amending Subsections (d), (e), (f), and (g) and adding Subsection
5 (d-2) to read as follows:

6 (d) Continuing education requirements for a classroom
7 teacher must provide that not more than 25 percent of the training
8 required every five years include instruction regarding:

9 (1) collecting and analyzing information that will
10 improve effectiveness in the classroom;

11 (2) recognizing early warning indicators that a
12 student may be at risk of dropping out of school;

13 (3) integrating technology into classroom
14 instruction; and

15 (4) educating diverse student populations, including:

16 (A) students with learning disabilities[~~7~~
17 ~~including mental health disorders~~];

18 (B) students with intellectual or developmental
19 disabilities;

20 (C) students with mental illness or a behavioral
21 health disorder or who engage in substance abuse;

22 (D) students who are educationally
23 disadvantaged;

24 (E) [~~(C)~~] students of limited English
25 proficiency; and

26 (F) [~~(D)~~] students at risk of dropping out of
27 school.

1 (d-2) Continuing education requirements for an educator may
2 include instruction regarding how grief and trauma affect student
3 learning and behavior and how evidence-based, grief-informed, and
4 trauma-informed strategies support the academic success of
5 students affected by grief and trauma.

6 (e) Continuing education requirements for a principal must
7 provide that not more than 25 percent of the training required every
8 five years include instruction regarding:

9 (1) effective and efficient management, including:

10 (A) collecting and analyzing information;

11 (B) making decisions and managing time; and

12 (C) supervising student discipline and managing
13 behavior;

14 (2) recognizing early warning indicators that a
15 student may be at risk of dropping out of school;

16 (3) integrating technology into campus curriculum and
17 instruction; and

18 (4) educating diverse student populations, including:

19 (A) students with learning disabilities[~~7~~
20 ~~including mental health disorders~~];

21 (B) students with intellectual or developmental
22 disabilities;

23 (C) students with mental illness or a behavioral
24 health disorder or who engage in substance abuse;

25 (D) students who are educationally
26 disadvantaged;

27 (E) [~~(C)~~] students of limited English

1 proficiency; and

2 (F) [~~(D)~~] students at risk of dropping out of
3 school.

4 (f) Continuing education requirements for a counselor must
5 provide that not more than 25 percent of training required every
6 five years include instruction regarding:

7 (1) assisting students in developing high school
8 graduation plans;

9 (2) implementing dropout prevention strategies; [~~and~~]

10 (3) informing students concerning:

11 (A) college admissions, including college
12 financial aid resources and application procedures; and

13 (B) career opportunities; and

14 (4) counseling students concerning mental illness,
15 behavioral health disorders, and substance abuse.

16 (g) The board shall adopt rules that allow an educator to
17 fulfill [~~up to 12 hours of~~] continuing education requirements by
18 participating in a mental health first aid training program offered
19 by a local mental health authority under Section 1001.203, Health
20 and Safety Code. The rules adopted under this subsection must allow
21 an educator who completes a mental health first aid training
22 program offered:

23 (1) using an online or videoconferencing format to
24 fulfill not more than eight hours of continuing education
25 requirements; or

26 (2) through a classroom instruction format that
27 requires in-person attendance to fulfill not more than 16 hours of

1 continuing education requirements, with the educator permitted to
2 receive credit for twice the number of hours of instruction
3 provided. [~~The number of hours of continuing education an educator~~
4 ~~may fulfill under this subsection may not exceed the number of hours~~
5 ~~the educator actually spends participating in a mental health first~~
6 ~~aid training program.~~]

7 SECTION 1.06. Sections 21.451(d) and (d-1), Education Code,
8 are amended to read as follows:

9 (d) The staff development:

10 (1) may include training in:

11 (A) recognizing signs of mental illness,
12 behavioral health disorders, and substance abuse;

13 (B) technology;

14 (C) [~~(B)~~] conflict resolution;

15 (D) [~~(C)~~] discipline strategies, including
16 classroom management, district discipline policies, and the
17 student code of conduct adopted under [~~Section 37.001 and~~] Chapter
18 37; and

19 (E) [~~(D)~~] preventing, identifying, responding
20 to, and reporting incidents of bullying;

21 (2) subject to Subsection (e) and to Section 21.3541
22 and rules adopted under that section, must include training that is
23 evidence-based [~~based on scientifically based research~~], as
24 defined by Section 8101, Every Student Succeeds Act, [~~9101, No~~
25 ~~Child Left Behind Act of 2001~~] (20 U.S.C. Section 7801), and that:

26 (A) relates to instruction of students with
27 disabilities; and

1 (B) is designed for educators who work primarily
2 outside the area of special education; and

3 (3) must include suicide prevention training that must
4 be provided:

5 (A) on an annual basis, as part of a new employee
6 orientation, to all new school district and open-enrollment charter
7 school educators; and

8 (B) to existing school district and
9 open-enrollment charter school educators on a schedule adopted by
10 the agency by rule.

11 (d-1) The suicide prevention training required by
12 Subsection (d)(3) must use a best practice-based program
13 recommended by the Health and Human Services Commission [~~Department~~
14 ~~of State Health Services~~] in coordination with the agency under
15 Section 38.301 [~~161.325, Health and Safety Code~~].

16 SECTION 1.07. Subchapter J, Chapter 21, Education Code, is
17 amended by adding Section 21.462 to read as follows:

18 Sec. 21.462. RESOURCES FOR TEACHERS OF STUDENTS WITH MENTAL
19 HEALTH NEEDS. The agency, in coordination with the Health and Human
20 Services Commission, shall establish and maintain an Internet
21 website to provide resources for teachers regarding teaching
22 students with mental illness or a behavioral health disorder or who
23 engage in substance abuse.

24 SECTION 1.08. Section 21.463, Education Code, is amended to
25 read as follows:

26 Sec. 21.463. RESOURCES FOR TEACHERS OF STUDENTS WITH
27 SPECIAL PHYSICAL HEALTH NEEDS. The agency, in coordination with

1 the Health and Human Services Commission, shall establish and
2 maintain an Internet website to provide resources for teachers who
3 teach students with special physical health needs. The agency
4 shall include on the website information about:

5 (1) the treatment and management of chronic physical
6 illnesses and how such illnesses impact a student's well-being or
7 ability to succeed in school; and

8 (2) food allergies that are common among students,
9 including information about preventing exposure to a specific food
10 when necessary to protect a student's health and information about
11 treating a student suffering from an allergic reaction to a food.

12 SECTION 1.09. Subchapter A, Chapter 28, Education Code, is
13 amended by adding Section 28.0011 to read as follows:

14 Sec. 28.0011. DEFINITIONS. In this chapter, "behavioral
15 health disorder," "mental illness," and "substance abuse" have the
16 meanings assigned by Section 11.183.

17 SECTION 1.10. Sections 28.002(a) and (r), Education Code,
18 are amended to read as follows:

19 (a) Each school district that offers kindergarten through
20 grade 12 shall offer, as a required curriculum:

21 (1) a foundation curriculum that includes:

22 (A) English language arts;

23 (B) mathematics;

24 (C) science; and

25 (D) social studies, consisting of Texas, United
26 States, and world history, government, economics, with emphasis on
27 the free enterprise system and its benefits, and geography; and

1 (2) an enrichment curriculum that includes:

2 (A) to the extent possible, languages other than
3 English;

4 (B) physical health, with emphasis on the
5 importance of proper nutrition and exercise;

6 (C) mental health, with emphasis on instruction
7 about mental illness, behavioral health disorders, and substance
8 abuse;

9 (D) physical education;

10 (E) [~~(D)~~] fine arts;

11 (F) [~~(E)~~] career and technology education;

12 (G) [~~(F)~~] technology applications;

13 (H) [~~(G)~~] religious literature, including the
14 Hebrew Scriptures (Old Testament) and New Testament, and its impact
15 on history and literature; and

16 (I) [~~(H)~~] personal financial literacy.

17 (r) In adopting the essential knowledge and skills for the
18 mental health curriculum under Subsection (a)(2)(C) [~~(a)(2)(B)~~],
19 the State Board of Education shall adopt essential knowledge and
20 skills that address the dangers, causes, consequences, signs,
21 symptoms, and treatment of binge drinking, ~~and~~ alcohol poisoning,
22 and substance abuse. The agency shall compile a list of
23 evidence-based substance abuse [~~alcohol~~] awareness programs from
24 which a school district shall choose a program to use in the
25 district's middle school, junior high school, and high school
26 mental health curriculum. In this subsection, "evidence-based
27 substance abuse [~~alcohol~~] awareness program" means a program,

1 practice, or strategy that has been proven to effectively prevent
2 substance abuse [~~or delay alcohol use~~] among students, as
3 determined by evaluations that use valid and reliable measures and
4 that are published in peer-reviewed journals.

5 SECTION 1.11. Sections 28.004(c), (d), and (k), Education
6 Code, are amended to read as follows:

7 (c) The local school health advisory council's duties
8 include recommending:

9 (1) the number of hours of instruction to be provided
10 in physical health education and in mental health education;

11 (2) policies, procedures, strategies, and curriculum
12 appropriate for specific grade levels designed to prevent physical
13 health concerns, including obesity, cardiovascular disease, Type 2
14 diabetes, and mental health concerns through coordination of:

15 (A) health education, which must equally address
16 physical health concerns and mental health concerns to ensure the
17 integration of physical health education and mental health
18 education;

19 (B) physical education and physical activity;

20 (C) nutrition services;

21 (D) parental involvement;

22 (E) instruction to prevent the use of tobacco;

23 (F) school health services;

24 (G) counseling and guidance services;

25 (H) a safe and healthy school environment; and

26 (I) school employee wellness;

27 (3) appropriate grade levels and methods of

1 instruction for human sexuality instruction;

2 (4) strategies for integrating the curriculum
3 components specified by Subdivision (2) with the following elements
4 in a coordinated school health program for the district:

5 (A) school health services, including physical
6 health services and mental health services, if provided at a campus
7 by the district or by a third party under a contract with the
8 district;

9 (B) counseling and guidance services;

10 (C) a safe and healthy school environment; and

11 (D) school employee wellness; and

12 (5) if feasible, joint use agreements or strategies
13 for collaboration between the school district and community
14 organizations or agencies.

15 (d) The board of trustees shall appoint at least five
16 members to the local school health advisory council. A majority of
17 the members must be persons who are parents of students enrolled in
18 the district and who are not employed by the district. One of those
19 members shall serve as chair or co-chair of the council. The board
20 of trustees shall appoint at least one psychiatrist or nonphysician
21 mental health professional, as defined by Section 38.0101. For
22 each school year for which the board of trustees is unable to
23 appoint a psychiatrist or nonphysician mental health professional,
24 the board must submit to the commissioner a statement that the board
25 was unable to appoint a psychiatrist or nonphysician mental health
26 professional despite a good faith effort to do so. The board of
27 trustees also may appoint one or more persons from each of the

1 following groups or a representative from a group other than a group
2 specified under this subsection:

- 3 (1) public school teachers;
- 4 (2) public school administrators;
- 5 (3) district students;
- 6 (4) health care professionals;
- 7 (5) the business community;
- 8 (6) law enforcement;
- 9 (7) senior citizens;
- 10 (8) the clergy;
- 11 (9) nonprofit health organizations; and
- 12 (10) local domestic violence programs.

13 (k) A school district shall publish in the student handbook
14 and post on the district's Internet website, if the district has an
15 Internet website:

16 (1) a statement of the policies adopted to promote the
17 physical health and mental health of students, the physical health
18 and mental health resources available at each campus, contact
19 information for the nearest providers of essential public health
20 services under Chapter 121, Health and Safety Code, and the contact
21 information for the nearest local mental health authority;

22 (2) a statement of the policies adopted to ensure that
23 elementary school, middle school, and junior high school students
24 engage in at least the amount and level of physical activity
25 required by Section 28.002(1);

26 (3) [~~2~~] a statement of:

27 (A) the number of times during the preceding year

1 the district's school health advisory council has met;

2 (B) whether the district has adopted and enforces
3 policies to ensure that district campuses comply with agency
4 vending machine and food service guidelines for restricting student
5 access to vending machines; and

6 (C) whether the district has adopted and enforces
7 policies and procedures that prescribe penalties for the use of
8 e-cigarettes, as defined by Section 38.006, and tobacco products by
9 students and others on school campuses or at school-sponsored or
10 school-related activities; and

11 (4) [~~(3)~~] a statement providing notice to parents that
12 they can request in writing their child's physical fitness
13 assessment results at the end of the school year.

14 SECTION 1.12. Section 29.003(b), Education Code, is amended
15 to read as follows:

16 (b) A student is eligible to participate in a school
17 district's special education program if the student:

18 (1) is not more than 21 years of age and has a visual or
19 auditory impairment that prevents the student from being adequately
20 or safely educated in public school without the provision of
21 special services; or

22 (2) is at least three but not more than 21 years of age
23 and has one or more of the following disabilities that prevents the
24 student from being adequately or safely educated in public school
25 without the provision of special services:

26 (A) physical disability;

27 (B) intellectual or developmental disability

1 ~~[mental retardation];~~

2 (C) mental health disorder or social-emotional
3 disorder ~~[emotional disturbance];~~

4 (D) learning disability;

5 (E) autism;

6 (F) speech disability; or

7 (G) traumatic brain injury.

8 SECTION 1.13. Sections 29.004(a), (a-1), and (c), Education
9 Code, are amended to read as follows:

10 (a) A written report of a full individual and initial
11 evaluation of a student for purposes of special education services
12 shall be completed as follows, except as otherwise provided by this
13 section:

14 (1) not later than the 20th ~~[45th]~~ school day
15 following the date on which the school district, in accordance with
16 20 U.S.C. Section 1414(a), as amended, receives written consent for
17 the evaluation, signed by the student's parent or legal guardian,
18 except that if a student has been absent from school during that
19 period on three or more days, that period must be extended by a
20 number of school days equal to the number of school days during that
21 period on which the student has been absent; or

22 (2) for students under five years of age on ~~[by]~~
23 September 1 of the school year and not enrolled in public school and
24 for students enrolled in a private or home school setting, not later
25 than the 20th ~~[45th]~~ school day following the date on which the
26 school district receives written consent for the evaluation, signed
27 by a student's parent or legal guardian.

1 (a-1) If a school district receives written consent signed
2 by a student's parent or legal guardian for a full individual and
3 initial evaluation of a student at least 10 [~~35~~] but less than 20
4 [~~45~~] school days before the last instructional day of the school
5 year, the evaluation must be completed and the written report of the
6 evaluation must be provided to the parent or legal guardian not
7 later than June 30 of that year. The student's admission, review,
8 and dismissal committee shall meet not later than the seventh
9 [~~15th~~] school day of the following school year to consider the
10 evaluation. If a district receives written consent signed by a
11 student's parent or legal guardian less than 10 [~~35~~] school days
12 before the last instructional day of the school year, or if the
13 district receives the written consent at least 10 [~~35~~] but less than
14 20 [~~45~~] school days before the last instructional day of the school
15 year but the student is absent from school during that period on
16 three or more days, Subsection (a)(1) applies to the date the
17 written report of the full individual and initial evaluation is
18 required.

19 (c) If a parent or legal guardian makes a written request to
20 a school district's director of special education services or to a
21 district administrative employee for a full individual and initial
22 evaluation of a student, the district shall, not later than the
23 seventh [~~15th~~] school day after the date the district receives the
24 request:

25 (1) provide an opportunity for the parent or legal
26 guardian to give written consent for the evaluation; or

27 (2) refuse to provide the evaluation and provide the

1 parent or legal guardian with notice of procedural safeguards under
2 20 U.S.C. Section 1415(b).

3 SECTION 1.14. Section 29.0041, Education Code, is amended
4 to read as follows:

5 Sec. 29.0041. INFORMATION AND CONSENT FOR CERTAIN MENTAL
6 HEALTH ASSESSMENTS, EVALUATIONS, OR EXAMINATIONS [~~PSYCHOLOGICAL~~
7 ~~EXAMINATIONS OR TESTS~~]. (a) On request of a child's parent, before
8 obtaining the parent's consent under 20 U.S.C. Section 1414 for the
9 administration of any mental health assessment, evaluation, or
10 [~~psychological~~] examination of [~~or test to~~] the child that is
11 included as part of the evaluation of the child's need for special
12 education, a school district shall provide to the child's parent:

13 (1) the name and type of the assessment, evaluation,
14 or examination [~~or test~~]; and

15 (2) an explanation of how the assessment, evaluation,
16 or examination [~~or test~~] will be used to develop an appropriate
17 individualized education program for the child.

18 (b) If the district determines that an additional mental
19 health assessment, evaluation, or examination [~~or test~~] is required
20 for the evaluation of a child's need for special education after
21 obtaining consent from the child's parent under Subsection (a), the
22 district shall provide the information described by Subsections
23 (a)(1) and (2) to the child's parent regarding the additional
24 mental health assessment, evaluation, or examination [~~or test~~] and
25 shall obtain additional consent for the assessment, evaluation, or
26 examination [~~or test~~].

27 (c) The time required for the district to provide

1 information and seek consent under Subsection (b) may not be
2 counted toward the 20 school [~~60 calendar~~] days for completion of an
3 evaluation under Section 29.004. If a parent does not give consent
4 under Subsection (b) within 10 school [~~20 calendar~~] days after the
5 date the district provided to the parent the information required
6 by that subsection, the parent's consent is considered denied.

7 SECTION 1.15. Section 29.011(b), Education Code, is amended
8 to read as follows:

9 (b) The commissioner shall require each school district or
10 shared services arrangement to designate at least one employee to
11 serve as the district's or shared services arrangement's designee
12 on transition and employment services for students enrolled in
13 special education programs under this subchapter. The commissioner
14 shall develop minimum training guidelines for a district's or
15 shared services arrangement's designee. An individual designated
16 under this subsection must provide information and resources about
17 effective transition planning and services and interagency
18 coordination to ensure that local school staff communicate and
19 collaborate with:

20 (1) students enrolled in special education programs
21 under this subchapter and the parents of those students; and

22 (2) as appropriate, local and regional staff of [~~the~~]:

23 (A) the Health and Human Services Commission;

24 (B) the [~~Department of Aging and Disability~~
25 ~~Services,~~

26 [~~(C) Department of Assistive and Rehabilitative~~
27 ~~Services,~~

1 ~~[(D)]~~ Department of State Health Services; ~~[and]~~
2 (C) the ~~[(E)]~~ Department of Family and Protective
3 Services; and
4 (D) any other health and human services agency,
5 as defined by Section 531.001, Government Code, that provides
6 relevant services.

7 SECTION 1.16. Section 29.012(d), Education Code, is amended
8 to read as follows:

9 (d) The agency ~~[Texas Education Agency]~~, the Health and
10 Human Services Commission, and the Department of Family and
11 Protective Services ~~[Texas Department of Mental Health and Mental~~
12 ~~Retardation, the Texas Department of Human Services, the Texas~~
13 ~~Department of Health, the Department of Protective and Regulatory~~
14 ~~Services, the Interagency Council on Early Childhood Intervention,~~
15 ~~the Texas Commission on Alcohol and Drug Abuse, and the Texas~~
16 ~~Juvenile Justice Department]~~ by a cooperative effort shall develop
17 and by rule adopt a memorandum of understanding. The memorandum
18 must:

19 (1) establish the respective responsibilities of
20 school districts and of residential facilities for the provision of
21 a free, appropriate public education, as required by the
22 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
23 et seq.) and its subsequent amendments, including each requirement
24 for children with disabilities who reside in those facilities;

25 (2) coordinate regulatory and planning functions of
26 the parties to the memorandum;

27 (3) establish criteria for determining when a public

1 school will provide educational services;

2 (4) provide for appropriate educational space when
3 education services will be provided at the residential facility;

4 (5) establish measures designed to ensure the safety
5 of students and teachers; and

6 (6) provide for binding arbitration consistent with
7 Chapter 2009, Government Code, and Section 154.027, Civil Practice
8 and Remedies Code.

9 SECTION 1.17. Section 29.015(b), Education Code, is amended
10 to read as follows:

11 (b) A foster parent may act as a parent of a child with a
12 disability, as authorized under 20 U.S.C. Section 1415(b) and its
13 subsequent amendments, if:

14 (1) the Department of Family and Protective [~~and~~
15 ~~Regulatory~~] Services is appointed as the temporary or permanent
16 managing conservator of the child;

17 (2) the child has been placed with the foster parent
18 for at least 60 days;

19 (3) the foster parent agrees to:

20 (A) participate in making educational decisions
21 on the child's behalf; and

22 (B) complete a training program for surrogate
23 parents that complies with minimum standards established by agency
24 rule; and

25 (4) the foster parent has no interest that conflicts
26 with the child's interests.

27 SECTION 1.18. Section 29.081(d), Education Code, is amended

1 to read as follows:

2 (d) For purposes of this section, "student at risk of
3 dropping out of school" includes each student who is under 26 years
4 of age and who:

5 (1) was not advanced from one grade level to the next
6 for one or more school years;

7 (2) if the student is in grade 7, 8, 9, 10, 11, or 12,
8 did not maintain an average equivalent to 70 on a scale of 100 in two
9 or more subjects in the foundation curriculum during a semester in
10 the preceding or current school year or is not maintaining such an
11 average in two or more subjects in the foundation curriculum in the
12 current semester;

13 (3) did not perform satisfactorily on an assessment
14 instrument administered to the student under Subchapter B, Chapter
15 39, and who has not in the previous or current school year
16 subsequently performed on that instrument or another appropriate
17 instrument at a level equal to at least 110 percent of the level of
18 satisfactory performance on that instrument;

19 (4) if the student is in prekindergarten,
20 kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on
21 a readiness test or assessment instrument administered during the
22 current school year;

23 (5) is pregnant or is a parent;

24 (6) has been placed in a disciplinary ~~[an]~~ alternative
25 education program in accordance with Section 37.006 during the
26 preceding or current school year;

27 (7) has been expelled in accordance with Section

1 37.007 during the preceding or current school year;

2 (8) is currently on parole, probation, deferred
3 prosecution, or other conditional release;

4 (9) was previously reported through the Public
5 Education Information Management System (PEIMS) to have dropped out
6 of school;

7 (10) is a student of limited English proficiency, as
8 defined by Section 29.052;

9 (11) is in the custody or care of the Department of
10 Family and Protective [~~and Regulatory~~] Services or has, during the
11 current school year, been referred to the department by a school
12 official, officer of the juvenile court, or law enforcement
13 official;

14 (12) is homeless, as defined by 42 U.S.C. Section
15 11302, and its subsequent amendments; or

16 (13) resided in the preceding school year or resides
17 in the current school year in a residential placement facility in
18 the district, including a detention facility, substance abuse
19 treatment facility, emergency shelter, psychiatric hospital,
20 halfway house, or foster group home.

21 SECTION 1.19. Section 30.0015(b), Education Code, is
22 amended to read as follows:

23 (b) The agency by rule shall develop and annually
24 disseminate standards for a school district's transfer of an
25 assistive technology device to an entity listed in this subsection
26 when a student with a disability using the device changes the school
27 of attendance in the district or ceases to attend school in the

1 district that purchased the device and the student's parents, or
2 the student if the student has the legal capacity to enter into a
3 contract, agrees to the transfer. The device may be transferred to:

4 (1) the school or school district in which the student
5 enrolls;

6 (2) a state agency, including the Health and Human
7 Services [~~Texas Rehabilitation~~] Commission [~~and the Texas~~
8 ~~Department of Mental Health and Mental Retardation~~], that provides
9 services to the student following the student's graduation from
10 high school; or

11 (3) the student's parents, or the student if the
12 student has the legal capacity to enter into a contract.

13 SECTION 1.20. Section 30.002(b), Education Code, is amended
14 to read as follows:

15 (b) The agency shall:

16 (1) develop standards and guidelines for all special
17 education services for children with visual impairments that it is
18 authorized to provide or support under this code;

19 (2) supervise regional education service centers and
20 other entities in assisting school districts in serving children
21 with visual impairments more effectively;

22 (3) develop and administer special education services
23 for students with both serious visual and auditory impairments;

24 (4) evaluate special education services provided for
25 children with visual impairments by school districts and approve or
26 disapprove state funding of those services; and

27 (5) maintain an effective liaison between special

1 education programs provided for children with visual impairments by
2 school districts and related initiatives of the Health and Human
3 Services Commission [~~Department of Assistive and Rehabilitative~~
4 ~~Services Division for Blind Services~~], the Department of State
5 Health Services Mental Health and Substance Abuse Division[~~, the~~
6 ~~Texas School for the Blind and Visually Impaired~~], and other
7 related programs, agencies, or facilities as appropriate.

8 SECTION 1.21. Section 38.007(b), Education Code, is amended
9 to read as follows:

10 (b) The board of trustees of a school district shall attempt
11 to provide a safe alcohol-free environment to students coming to or
12 going from school. The board of trustees shall [~~may~~] cooperate with
13 local law enforcement officials and the Texas Alcoholic Beverage
14 Commission in attempting to provide this environment and in
15 enforcing Sections 101.75, 109.33, and 109.59, Alcoholic Beverage
16 Code. Additionally, the board, if a majority of the area of a
17 district is located in a municipality with a population of 900,000
18 or more, shall [~~may~~] petition the commissioners court of the county
19 in which the district is located or the governing board of an
20 incorporated city or town in which the district is located to adopt
21 a 1,000-foot zone under Section 109.33, Alcoholic Beverage Code.

22 SECTION 1.22. Subchapter A, Chapter 38, Education Code, is
23 amended by adding Section 38.0101 to read as follows:

24 Sec. 38.0101. AUTHORITY TO EMPLOY NONPHYSICIAN MENTAL
25 HEALTH PROFESSIONAL. (a) A school district may employ a
26 nonphysician mental health professional.

27 (b) In this section, "nonphysician mental health

1 professional" means:

2 (1) a psychologist licensed to practice in this state
3 and designated as a health-service provider;

4 (2) a registered nurse with a master's or doctoral
5 degree in psychiatric nursing;

6 (3) a licensed clinical social worker;

7 (4) a professional counselor licensed to practice in
8 this state; or

9 (5) a marriage and family therapist licensed to
10 practice in this state.

11 SECTION 1.23. Section 38.013(a), Education Code, is amended
12 to read as follows:

13 (a) The agency shall make available to each school district
14 one or more coordinated health programs [~~designed to prevent~~
15 ~~obesity, cardiovascular disease, oral diseases, and Type 2~~
16 ~~diabetes~~] in elementary school, middle school, and junior high
17 school [~~students~~]. Each program must provide for coordinating:

18 (1) physical health education, including programs
19 designed to prevent obesity, cardiovascular disease, oral
20 diseases, and Type 2 diabetes and programs designed to promote the
21 role of proper nutrition [~~oral health education~~];

22 (2) mental health education, including education
23 about suicide prevention;

24 (3) substance abuse education, including education
25 about alcohol abuse, prescription drug abuse, and abuse of other
26 controlled substances;

27 (4) physical education and physical activity;

- 1 (5) [~~(3)~~] ~~nutrition services; and~~
2 ~~[(4)]~~ parental involvement;
3 (6) activities to promote safe and supportive school
4 climates and students' social and emotional wellness, including the
5 use of trauma-informed practices;
6 (7) employee wellness; and
7 (8) community engagement and involvement.

8 SECTION 1.24. Sections 38.016(a) and (c), Education Code,
9 are amended to read as follows:

10 (a) In this section:

11 (1) "Nonphysician mental health professional" has the
12 meaning assigned by Section 38.0101.

13 (2) "Parent" includes a guardian or other person
14 standing in parental relation.

15 (3) [~~(2)~~] "Psychotropic drug" means a substance that
16 is:

17 (A) used in the diagnosis, treatment, or
18 prevention of a disease or as a component of a medication; and

19 (B) intended to have an altering effect on
20 perception, emotion, or behavior.

21 (c) Subsection (b) does not:

22 (1) prevent an appropriate referral under the child
23 find system required under 20 U.S.C. Section 1412, as amended; [~~or~~]

24 (2) prohibit a school district employee who is a
25 registered nurse, advanced nurse practitioner, physician, or
26 nonphysician mental health professional [~~certified or~~
27 ~~appropriately credentialed mental health professional~~] from

1 recommending that a child be evaluated by a physician or
2 nonphysician mental health professional [~~an appropriate medical~~
3 ~~practitioner~~]; or

4 (3) prohibit a school employee from discussing any
5 aspect of a child's behavior or academic progress with the child's
6 parent or another school district employee.

7 SECTION 1.25. Section 38.051(b), Education Code, is amended
8 to read as follows:

9 (b) On the recommendation of an advisory council
10 established under Section 38.058 or on the initiative of the board
11 of trustees, a school district may establish a school-based health
12 center at one or more campuses in the district to meet the health
13 care needs of students and their families.

14 SECTION 1.26. Section 38.054, Education Code, is amended to
15 read as follows:

16 Sec. 38.054. CATEGORIES OF SERVICES. (a) The permissible
17 categories of services are:

- 18 (1) family and home support;
- 19 (2) physical health care, including immunizations;
- 20 (3) dental health care;
- 21 (4) health education; [~~and~~]
- 22 (5) preventive health strategies; and
- 23 (6) treatment for mental illness, a behavioral health
24 disorder, or substance abuse.

25 (b) In this section, "behavioral health disorder," "mental
26 illness," and "substance abuse" have the meanings assigned by
27 Section 11.183.

1 SECTION 1.27. Section 38.057(b), Education Code, is amended
2 to read as follows:

3 (b) If it is determined that a student is in need of a
4 referral for physical health services or mental health services,
5 the staff of the center shall notify the person whose consent is
6 required under Section 38.053 verbally and in writing of the basis
7 for the referral. The referral may not be provided unless the
8 person provides written consent for the type of service to be
9 provided and provides specific written consent for each treatment
10 occasion or for a course of treatment that includes multiple
11 treatment occasions of the same type of service.

12 SECTION 1.28. Subchapter B, Chapter 38, Education Code, is
13 amended by adding Section 38.0591 to read as follows:

14 Sec. 38.0591. ACCESS TO MENTAL HEALTH SERVICES. The
15 agency, in cooperation with the Health and Human Services
16 Commission, shall develop guidelines for school districts
17 regarding:

18 (1) partnering with a local mental health authority
19 and with community mental health services providers to increase
20 student access to school-based integrated mental health services;
21 and

22 (2) obtaining school-based integrated mental health
23 services through the medical assistance program under Chapter 32,
24 Human Resources Code.

25 SECTION 1.29. Section 38.060(c), Education Code, is amended
26 to read as follows:

27 (c) The school district [~~council~~] shall keep a record of

1 efforts made to coordinate with existing providers.

2 SECTION 1.30. Subchapter O-1, Chapter 161, Health and
3 Safety Code, is transferred to Chapter 38, Education Code,
4 redesignated as Subchapter G, Chapter 38, Education Code, and
5 amended to read as follows:

6 SUBCHAPTER G [~~O-1~~]. MENTAL HEALTH, SUBSTANCE ABUSE, AND YOUTH
7 SUICIDE

8 Sec. 38.301 [~~161.325~~]. MENTAL HEALTH PROMOTION AND
9 INTERVENTION, SUBSTANCE ABUSE PREVENTION AND INTERVENTION, AND
10 SUICIDE PREVENTION. (a) The agency [~~department~~], in coordination
11 with the Health and Human Services Commission [~~Texas Education~~
12 ~~Agency~~] and regional education service centers, shall provide and
13 annually update a list of recommended best practice-based programs
14 in the areas specified under Subsection (c) [~~(a-1)~~] for
15 implementation in public elementary, junior high, middle, and high
16 schools within the general education setting. The agency, the
17 Health and Human Services Commission, and each regional education
18 service center shall each publish the list on their Internet
19 websites in an easily accessible, searchable, and user-friendly
20 format.

21 (b) Each school district may select from the list provided
22 under Subsection (a) a program or programs appropriate for
23 implementation in the district.

24 (c) [~~(a-1)~~] The list provided under Subsection (a) must
25 include programs in the following areas:

- 26 (1) early mental health intervention;
27 (2) mental health promotion [~~and positive youth~~

1 ~~development~~];

2 (3) substance abuse prevention;

3 (4) substance abuse intervention; ~~and~~

4 (5) suicide prevention;

5 (6) grief-informed and trauma-informed practices;

6 (7) social and emotional wellness and learning;

7 (8) positive behavior supports and positive youth

8 development; and

9 (9) safe and supportive school climate.

10 (d) ~~[(a-2) The department, the Texas Education Agency, and~~
11 ~~each regional education service center shall make the list easily~~
12 ~~accessible on their websites.~~

13 ~~[(b)]~~ The suicide prevention programs on the list provided
14 under Subsection (a) must include components that provide for
15 training counselors, teachers, nurses, administrators, and other
16 staff, as well as law enforcement officers and social workers who
17 regularly interact with students, to:

18 (1) recognize students at risk of committing suicide,
19 including students who are or may be the victims of or who engage in
20 bullying;

21 (2) recognize students displaying early warning signs
22 and a possible need for early mental health or substance abuse
23 intervention, which warning signs may include declining academic
24 performance, depression, anxiety, isolation, unexplained changes
25 in sleep or eating habits, and destructive behavior toward self and
26 others; and

27 (3) intervene effectively with students described by

1 Subdivision (1) or (2) by providing notice and referral to a parent
2 or guardian so appropriate action, such as seeking mental health or
3 substance abuse services, may be taken by a parent or guardian.

4 (e) [~~(c)~~] In developing the list of programs, the agency
5 [~~department~~] and the Health and Human Services Commission [~~Texas~~
6 ~~Education Agency~~] shall consider:

7 (1) any existing suicide prevention method developed
8 by a school district; and

9 (2) any Internet or online course or program developed
10 in this state or another state that is based on best practices
11 recognized by the Substance Abuse and Mental Health Services
12 Administration or the Suicide Prevention Resource Center.

13 (f) [~~(c-1)~~] Except as otherwise provided by this
14 subsection, each school district shall provide training described
15 in the components set forth under Subsection (d) [~~(b)~~] for
16 teachers, counselors, principals, and all other appropriate
17 personnel. A school district is required to provide the training at
18 an elementary school campus only to the extent that sufficient
19 funding and programs are available. A school district may
20 implement a program on the list to satisfy the requirements of this
21 subsection.

22 (g) [~~(c-2)~~] If a school district provides the training
23 under Subsection (f) [~~(c-1)~~]:

24 (1) a school district employee described under that
25 subsection must participate in the training at least one time; and

26 (2) the school district shall maintain records that
27 include the name of each district employee who participated in the

1 training.

2 (h) [~~(d)~~] The board of trustees of each school district
3 shall [~~may~~] adopt a policy concerning each area listed in
4 Subsection (c), including mental health promotion and
5 intervention, substance abuse prevention and intervention, and
6 suicide prevention that:

7 (1) establishes a procedure for providing notice of a
8 recommendation for early mental health or substance abuse
9 intervention regarding a student to a parent or guardian of the
10 student within a reasonable amount of time after the identification
11 of early warning signs as described by Subsection (d)(2) [~~(b)(2)~~];

12 (2) establishes a procedure for providing notice of a
13 student identified as at risk of committing suicide to a parent or
14 guardian of the student within a reasonable amount of time after the
15 identification of early warning signs as described by Subsection
16 (d)(2) [~~(b)(2)~~];

17 (3) establishes that the district may develop a
18 reporting mechanism and may designate at least one person to act as
19 a liaison officer in the district for the purposes of identifying
20 students in need of early mental health or substance abuse
21 intervention or suicide prevention; and

22 (4) sets out available counseling alternatives for a
23 parent or guardian to consider when their child is identified as
24 possibly being in need of early mental health or substance abuse
25 intervention or suicide prevention.

26 (i) [~~(e)~~] The policy must prohibit the use without the prior
27 consent of a student's parent or guardian of a medical screening of

1 the student as part of the process of identifying whether the
2 student is possibly in need of early mental health or substance
3 abuse intervention or suicide prevention.

4 (j) [~~(f)~~] The policy and any necessary procedures adopted
5 under Subsection (h) [~~(d)~~] must be included in:

- 6 (1) the annual student handbook; and
7 (2) the district improvement plan under Section
8 [11.252](#) [~~, Education Code~~].

9 (k) [~~(g)~~] The agency, the Health and Human Services
10 Commission, and each regional education service center:

11 (1) [~~department~~] may accept donations for purposes of
12 this section from sources without a conflict of interest; and

13 (2) [~~The department~~] may not accept donations for
14 purposes of this section from an anonymous source.

15 (1) [~~(i)~~] Nothing in this section is intended to interfere
16 with the rights of parents or guardians and the decision-making
17 regarding the best interest of the child. Policy and procedures
18 adopted in accordance with this section are intended to notify a
19 parent or guardian of a need for mental health or substance abuse
20 intervention so that a parent or guardian may take appropriate
21 action. Nothing in this section shall be construed as giving school
22 districts the authority to prescribe medications. Any and all
23 medical decisions are to be made by a parent or guardian of a
24 student.

25 Sec. 38.302 [~~161.326~~]. IMMUNITY. This subchapter does not:

- 26 (1) waive any immunity from liability of a school
27 district or of district school officers or employees;

1 (2) create any liability for a cause of action against
2 a school district or against district school officers or employees;
3 or

4 (3) waive any immunity from liability under Section
5 [74.151](#), Civil Practice and Remedies Code.

6 ARTICLE 2. CONFORMING AMENDMENTS

7 SECTION 2.01. Section [74.151](#)(e), Civil Practice and
8 Remedies Code, is amended to read as follows:

9 (e) Except as provided by this subsection, this section does
10 not apply to a person whose negligent act or omission was a
11 producing cause of the emergency for which care is being
12 administered. This subsection does not apply to liability of a
13 school district or district school officer or employee arising from
14 an act or omission under a program or policy or procedure adopted
15 under Subchapter G, Chapter 38, Education [~~O-1, Chapter 161, Health~~
16 ~~and Safety~~] Code, other than liability arising from wilful or
17 intentional misconduct.

18 SECTION 2.02. Section [25.114](#)(a), Education Code, is amended
19 to read as follows:

20 (a) In implementing the curriculum for physical education
21 under Section [28.002](#)(a)(2)(D) [~~[28.002](#)(a)(2)(C)~~], each school
22 district shall establish specific objectives and goals the district
23 intends to accomplish through the curriculum, including, to the
24 extent practicable, student/teacher ratios that are small enough to
25 enable the district to:

26 (1) carry out the purposes of and requirements for the
27 physical education curriculum as provided under Section [28.002](#)(d);

1 and

2 (2) ensure the safety of students participating in
3 physical education.

4 SECTION 2.03. Section 28.003(b), Education Code, is amended
5 to read as follows:

6 (b) In this section, "educational program" means a course or
7 series of courses in the required curriculum under Section 28.002,
8 other than a fine arts course under Section 28.002(a)(2)(E)
9 [~~28.002(a)(2)(D)~~] or a career and technology course under Section
10 28.002(a)(2)(F) [~~28.002(a)(2)(E)~~].

11 SECTION 2.04. Section 28.025(b-1), Education Code, is
12 amended to read as follows:

13 (b-1) The State Board of Education by rule shall require
14 that the curriculum requirements for the foundation high school
15 program under Subsection (a) include a requirement that students
16 successfully complete:

17 (1) four credits in English language arts under
18 Section 28.002(a)(1)(A), including one credit in English I, one
19 credit in English II, one credit in English III, and one credit in
20 an advanced English course authorized under Subsection (b-2);

21 (2) three credits in mathematics under Section
22 28.002(a)(1)(B), including one credit in Algebra I, one credit in
23 geometry, and one credit in any advanced mathematics course
24 authorized under Subsection (b-2);

25 (3) three credits in science under Section
26 28.002(a)(1)(C), including one credit in biology, one credit in any
27 advanced science course authorized under Subsection (b-2), and one

1 credit in integrated physics and chemistry or in an additional
2 advanced science course authorized under Subsection (b-2);

3 (4) three credits in social studies under Section
4 [28.002\(a\)\(1\)\(D\)](#), including one credit in United States history, at
5 least one-half credit in government and at least one-half credit in
6 economics, and one credit in world geography or world history;

7 (5) except as provided under Subsections (b-12),
8 (b-13), and (b-14), two credits in the same language in a language
9 other than English under Section [28.002\(a\)\(2\)\(A\)](#);

10 (6) five elective credits;

11 (7) one credit in fine arts under Section
12 [28.002\(a\)\(2\)\(E\)](#) [~~[28.002\(a\)\(2\)\(D\)](#)~~]; and

13 (8) except as provided by Subsection (b-11), one
14 credit in physical education under Section [28.002\(a\)\(2\)\(D\)](#)
15 [~~[28.002\(a\)\(2\)\(C\)](#)~~].

16 SECTION 2.05. Section [38.0141](#), Education Code, is amended
17 to read as follows:

18 Sec. 38.0141. REPORTING OF CERTAIN HEALTH AND SAFETY
19 INFORMATION REQUIRED. Each school district shall provide to the
20 agency information as required by the commissioner, including
21 statistics and data, relating to student health and physical
22 activity and information described by Sections [28.004\(k\)\(2\)](#), (3),
23 and (4) [~~Section [28.004\(k\)](#)~~], presented in a form determined by the
24 commissioner. The district shall provide the information required
25 by this section for the district and for each campus in the
26 district.

27 SECTION 2.06. Section [38.101\(a\)](#), Education Code, is amended

1 to read as follows:

2 (a) Except as provided by Subsection (b), a school district
3 annually shall assess the physical fitness of students enrolled in
4 grade three or higher in a course that satisfies the curriculum
5 requirements for physical education under Section 28.002(a)(2)(D)
6 [~~28.002(a)(2)(C)~~].

7 SECTION 2.07. Section 130.008(c), Education Code, is
8 amended to read as follows:

9 (c) The contact hours attributable to the enrollment of a
10 high school student in a course offered for joint high school and
11 junior college credit under this section, excluding a course for
12 which the student attending high school may receive course credit
13 toward the physical education curriculum requirement under Section
14 28.002(a)(2)(D) [~~28.002(a)(2)(C)~~], shall be included in the
15 contact hours used to determine the junior college's proportionate
16 share of the state money appropriated and distributed to public
17 junior colleges under Sections 130.003 and 130.0031, even if the
18 junior college waives all or part of the tuition or fees for the
19 student under Subsection (b).

20 ARTICLE 3. REPEALER; EFFECTIVE DATE

21 SECTION 3.01. Section 28.002(w), Education Code, is
22 repealed.

23 SECTION 3.02. This Act takes effect September 1, 2017.