

By: Price, Turner, White, Bernal, Huberty,
et al.

H.B. No. 11

Substitute the following for H.B. No. 11:

By: Price

C.S.H.B. No. 11

A BILL TO BE ENTITLED

AN ACT

relating to consideration of the mental health of public school students in training requirements for certain school employees, curriculum requirements, educational programs, state and regional programs and services, and health care services for students.

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

ARTICLE 1. MENTAL HEALTH OF STUDENTS IN PUBLIC SCHOOLS

SECTION 1.01. Section 5.001, Education Code, is amended by adding Subdivisions (5-a) and (9) to read as follows:

(5-a) "Mental health condition" means an illness, disease, or disorder, other than epilepsy, dementia, substance abuse, or intellectual disability, that:

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

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

(9) "Substance abuse" means a patterned use of a substance, including a controlled substance, as defined by Chapter 481, Health and Safety Code, and alcohol, in which the person consumes the substance in amounts or with methods that are harmful to the person's self or to others.

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

(a) Each school district shall have a district improvement

1 plan that is developed, evaluated, and revised annually, in
2 accordance with district policy, by the superintendent with the
3 assistance of the district-level committee established under
4 Section 11.251. The purpose of the district improvement plan is to
5 guide district and campus staff in the improvement of student
6 performance for all student groups in order to attain state
7 standards in respect to the achievement indicators adopted under
8 Sections 39.053(c)(1)-(4). The district improvement plan must
9 include provisions for:

10 (1) a comprehensive needs assessment addressing
11 district student performance on the achievement indicators, and
12 other appropriate measures of performance, that are disaggregated
13 by all student groups served by the district, including categories
14 of ethnicity, socioeconomic status, sex, and populations served by
15 special programs, including students in special education programs
16 under Subchapter A, Chapter 29;

17 (2) measurable district performance objectives for
18 all appropriate achievement indicators for all student
19 populations, including students in special education programs
20 under Subchapter A, Chapter 29, and other measures of student
21 performance that may be identified through the comprehensive needs
22 assessment;

23 (3) strategies for improvement of student performance
24 that include:

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

27 (B) methods for addressing the needs of students

for special programs, including:

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

(ii) conflict resolution programs;

(iii) violence prevention programs; and

(iv) dyslexia treatment programs;

(C) dropout reduction;

(D) integration of technology in instructional and administrative programs;

(E) positive behavior interventions and support [~~discipline management~~];

(F) staff development for professional staff of the district;

(G) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities; and

(H) accelerated education;

(4) strategies for providing to middle school, junior high school, and high school students, those students' teachers and school counselors, and those students' parents information about:

(A) higher education admissions and financial aid opportunities;

(B) the TEXAS grant program and the Teach for Texas grant program established under Chapter 56;

(C) the need for students to make informed

curriculum choices to be prepared for success beyond high school;
and

(D) sources of information on higher education admissions and financial aid;

(5) resources needed to implement identified strategies;

(6) staff responsible for ensuring the accomplishment of each strategy;

(7) timelines for ongoing monitoring of the implementation of each improvement strategy;

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

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

SECTION 1.03. Section 21.044(c-1), Education Code, is amended to read as follows:

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

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

(2) include effective strategies [~~for teaching and~~

~~intervening with students with mental or emotional disorders],~~
including de-escalation techniques and positive behavioral
interventions and supports, for teaching and intervening with
students with mental health conditions or who engage in substance
abuse.

SECTION 1.04. Section 21.054, Education Code, is amended by
amending Subsections (d), (e), (f), and (g) and adding Subsections
(d-2) and (e-2) to read as follows:

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

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

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

(3) integrating technology into classroom
instruction; and

(4) educating diverse student populations, including:

(A) students who are eligible to participate in
special education programs under Subchapter A, Chapter 29 ~~[with~~
~~disabilities, including mental health disorders]~~;

(B) students who are eligible to receive
educational services required under Section 504, Rehabilitation
Act of 1973 (29 U.S.C. Section 794);

(C) students with mental health conditions or who
engage in substance abuse;

(D) students who are educationally

disadvantaged;
(E) ~~(C)~~ students of limited English proficiency; and
(F) ~~(D)~~ students at risk of dropping out of school.

(d-2) Continuing education requirements for a classroom teacher may include instruction regarding how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma.

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

(1) effective and efficient management, including:
(A) collecting and analyzing information;
(B) making decisions and managing time; and
(C) supervising student discipline and managing behavior;

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

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

(4) educating diverse student populations, including:

(A) students who are eligible to participate in special education programs under Subchapter A, Chapter 29 ~~[with disabilities, including mental health disorders];~~

(B) students who are eligible to receive

educational services required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794);

(C) students with mental health conditions or who engage in substance abuse;

(D) students who are educationally disadvantaged;

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

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

(e-2) Continuing education requirements for a principal may include instruction regarding how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma.

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

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

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

(3) informing students concerning:

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

(B) career opportunities; and

(4) counseling students concerning mental health conditions and substance abuse.

(g) The board shall adopt rules that allow an educator, including a classroom teacher and a principal or other administrator, to fulfill ~~[up to 12 hours of]~~ continuing education requirements by participating in a mental health first aid training program offered by a local mental health authority under Section 1001.203, Health and Safety Code. The rules adopted under this subsection must allow an educator, including a classroom teacher and a principal or other administrator, who completes a mental health first aid training program offered:

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

(2) through a classroom instruction format that requires in-person attendance to fulfill not more than 16 hours of continuing education requirements, with the educator, including a classroom teacher and a principal or other administrator, permitted to receive credit for twice the number of hours of instruction provided. ~~[The number of hours of continuing education an educator may fulfill under this subsection may not exceed the number of hours the educator actually spends participating in a mental health first aid training program.]~~

SECTION 1.05. Sections 21.451(d), (d-1), and (e), Education Code, are amended to read as follows:

(d) The staff development:

(1) may include training in:

(A) recognizing signs of mental health conditions and substance abuse;

1 (B) technology;

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

3 (D) positive behavior intervention and support

4 ~~[(C) discipline]~~ strategies, including classroom management,

5 district discipline policies, and the student code of conduct

6 adopted under ~~[Section 37.001 and]~~ Chapter 37; and

7 (E) [~~(D)~~] preventing, identifying, responding

8 to, and reporting incidents of bullying;

9 (2) subject to Subsection (e) and to Section 21.3541

10 and rules adopted under that section, must include training that is

11 evidence-based [~~based on scientifically based research~~], as

12 defined by Section 8101, Every Student Succeeds Act [~~9101, No Child~~

13 ~~Left Behind Act of 2001~~] (20 U.S.C. Section 7801), and that:

14 (A) relates to instruction of students with

15 disabilities; and

16 (B) is designed for educators, including

17 classroom teachers, who work primarily outside the area of special

18 education; and

19 (3) must include suicide prevention training that must

20 be provided:

21 (A) on an annual basis, as part of a new employee

22 orientation, to all new school district and open-enrollment charter

23 school educators, including classroom teachers; and

24 (B) to existing school district and

25 open-enrollment charter school educators, including classroom

26 teachers, on a schedule adopted by the agency by rule.

27 (d-1) The suicide prevention training required by

Subsection (d)(3) must use a best practice-based program recommended by the Health and Human Services Commission [~~Department of State Health Services~~] in coordination with the agency under Section 38.301 [~~161.325, Health and Safety Code~~].

(e) A school district is required to provide the training described by Subsection (d)(2) to an educator, including a classroom teacher, who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered.

SECTION 1.06. Subchapter J, Chapter 21, Education Code, is amended by adding Section 21.462 to read as follows:

Sec. 21.462. RESOURCES REGARDING STUDENTS WITH HEALTH NEEDS. The agency, in coordination with the Health and Human Services Commission, shall establish and maintain an Internet website to provide resources for school district or open-enrollment charter school employees regarding working with students with mental health conditions, students who engage in substance abuse, or students with physical health needs. The agency must include on the Internet website information about:

(1) the interventions for, treatment of, and management of mental health conditions, substance abuse, and physical health needs, and how mental health conditions, substance abuse, or physical health needs may affect a student's well-being or ability to succeed in school;

1 (2) grief-informed and trauma-informed practices;
2 building skills related to managing emotions, establishing and
3 maintaining positive relationships, and responsible
4 decision-making; positive behavior interventions and supports; and
5 a safe and supportive school climate; and

6 (3) food allergies that are common among students,
7 methods for preventing exposure to a specific food when necessary
8 to protect a student's health, and treating a student who is
9 suffering from an allergic reaction to a food.

10 SECTION 1.07. Sections 28.002(a) and (r), Education Code,
11 are amended to read as follows:

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

14 (1) a foundation curriculum that includes:
15 (A) English language arts;
16 (B) mathematics;
17 (C) science; and
18 (D) social studies, consisting of Texas, United
19 States, and world history, government, economics, with emphasis on
20 the free enterprise system and its benefits, and geography; and

21 (2) an enrichment curriculum that includes:
22 (A) to the extent possible, languages other than
23 English;

24 (B) health, with emphasis on:
25 (i) physical health, including the
26 importance of proper nutrition and exercise; and
27 (ii) mental health, including instruction

about mental health conditions and substance abuse;

(C) physical education;

(D) fine arts;

(E) career and technology education;

(F) technology applications;

(G) religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and

(H) personal financial literacy.

(r) In adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B), the State Board of Education shall adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking, and alcohol poisoning, and other forms of substance abuse. The agency shall compile a list of evidence-based substance abuse ~~[alcohol]~~ awareness programs from which a school district shall choose a program to use in the district's middle school, junior high school, and high school health curriculum. In this subsection, "evidence-based substance abuse ~~[alcohol]~~ awareness program" means a program, practice, or strategy that has been proven to effectively prevent substance abuse ~~[or delay alcohol use]~~ among students, as determined by evaluations that are evidence-based ~~[use valid and reliable measures and that are published in peer-reviewed journals]~~.

SECTION 1.08. Sections 28.004(c), (d), and (k), Education Code, are amended to read as follows:

(c) The local school health advisory council's duties

include recommending:

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

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

(A) health education, which must address physical health concerns and mental health concerns to ensure the integration of physical health education and mental health education;

(B) physical education and physical activity;

(C) nutrition services;

(D) parental involvement;

(E) instruction about substance abuse [~~to prevent the use of tobacco~~];

(F) school health services, including mental health services;

(G) counseling and guidance services;

(H) a safe and healthy school environment; and

(I) school employee wellness;

(3) appropriate grade levels and methods of instruction for human sexuality instruction;

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

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

- (B) counseling and guidance services;
- (C) a safe and healthy school environment; and
- (D) school employee wellness; and

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

(d) The board of trustees shall appoint at least five members to the local school health advisory council. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. One of those members shall serve as chair or co-chair of the council. The board of trustees shall make a good faith effort to appoint at least one psychiatrist or nonphysician mental health professional, as defined by Section 38.0101. The board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection:

- (1) public school teachers;
- (2) public school administrators;
- (3) district students;
- (4) health care professionals;
- (5) the business community;
- (6) law enforcement;

- (7) senior citizens;
- (8) the clergy;
- (9) nonprofit health organizations; and
- (10) local domestic violence programs.

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

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

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

(3) ~~(2)~~ a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

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

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of

e-cigarettes, as defined by Section 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and

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

SECTION 1.09. Section 29.003(b), Education Code, is amended to read as follows:

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

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

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

- (A) physical disability;
- (B) intellectual disability ~~[mental retardation]~~;
- (C) emotional disturbance;
- (D) learning disability;
- (E) autism;
- (F) speech disability; or
- (G) traumatic brain injury.

SECTION 1.10. Section 29.004, Education Code, is amended by

adding Subsection (d) to read as follows:

(d) A school district may develop an interim intervention, support, or crisis plan to provide immediate services and supports to a student while the student's full individual and initial evaluation is being conducted.

SECTION 1.11. Section 29.011(b), Education Code, is amended to read as follows:

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

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

(2) as appropriate, local and regional staff of the:

(A) Health and Human Services Commission;

(B) Texas Workforce Commission [~~Department of Aging and Disability Services~~];

(C) [~~Department of Assistive and Rehabilitative Services~~];

[~~(D)~~] Department of State Health Services; and

1 (D) [~~(E)~~] Department of Family and Protective
2 Services.

3 SECTION 1.12. Section 29.012(d), Education Code, is amended
4 to read as follows:

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

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

21 (2) coordinate regulatory and planning functions of
22 the parties to the memorandum;

23 (3) establish criteria for determining when a public
24 school will provide educational services;

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

27 (5) establish measures designed to ensure the safety

1 of students and teachers; and

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

5 SECTION 1.13. Section 29.015(b), Education Code, is amended
6 to read as follows:

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

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

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

15 (3) the foster parent agrees to:

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

18 (B) complete a training program for surrogate
19 parents that complies with minimum standards established by agency
20 rule; and

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

23 SECTION 1.14. Section 29.081(d), Education Code, is amended
24 to read as follows:

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

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

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

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

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

(5) is pregnant or is a parent;

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

(7) has been expelled in accordance with Section 37.007 during the preceding or current school year;

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

(9) was previously reported through the Public

Education Information Management System (PEIMS) to have dropped out of school;

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

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

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

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

SECTION 1.15. Section 30.0015(b), Education Code, is amended to read as follows:

(b) The agency by rule shall develop and annually disseminate standards for a school district's transfer of an assistive technology device to an entity listed in this subsection when a student with a disability using the device changes the school of attendance in the district or ceases to attend school in the district that purchased the device and the student's parents, or the student if the student has the legal capacity to enter into a contract, agrees to the transfer. The device may be transferred to:

(1) the school or school district in which the student

enrolls;

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

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

SECTION 1.16. Section 30.002(b), Education Code, is amended to read as follows:

(b) The agency shall:

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

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

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

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

(5) maintain an effective liaison between special education programs provided for children with visual impairments by school districts and related initiatives of the Health and Human Services Commission [~~Department of Assistive and Rehabilitative Services Division for Blind Services~~], the Department of State

1 Health Services Mental Health and Substance Abuse Division, the
2 Texas Workforce Commission [~~School for the Blind and Visually~~
3 ~~Impaired~~], and other related programs, agencies, or facilities as
4 appropriate.

5 SECTION 1.17. The heading to Section 38.007, Education
6 Code, is amended to read as follows:

7 Sec. 38.007. DRUG-FREE AND ALCOHOL-FREE SCHOOL ZONES.

8 SECTION 1.18. 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 drug-free and alcohol-free environment to
12 students coming to or going from school. The board of trustees
13 shall [~~may~~] cooperate with local law enforcement officials and the
14 Texas Alcoholic Beverage Commission in attempting to provide this
15 environment and in enforcing Sections 101.75, 109.33, and 109.59,
16 Alcoholic Beverage Code. Additionally, the board, if a majority of
17 the area of a district is located in a municipality with a
18 population of 900,000 or more, may petition the commissioners court
19 of the county in which the district is located or the governing
20 board of an incorporated city or town in which the district is
21 located to adopt a 1,000-foot zone under Section 109.33, Alcoholic
22 Beverage Code.

23 SECTION 1.19. Subchapter A, Chapter 38, Education Code, is
24 amended by adding Section 38.0101 to read as follows:

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

1 (b) In this section, "nonphysician mental health
2 professional" means:

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

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

7 (3) a licensed clinical social worker; or

8 (4) a professional counselor licensed to practice in
9 this state.

10 SECTION 1.20. Section 38.013(a), Education Code, is amended
11 to read as follows:

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

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 mental health conditions and mental health wellness;

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; and

(5) ~~[(3) nutrition services, and~~
~~[(4)]~~ parental involvement.

SECTION 1.21. Sections 38.016(a) and (c), Education Code,
are amended to read as follows:

(a) In this section:

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

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

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

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

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

(c) Subsection (b) does not:

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

(2) prohibit a school district employee who is a
registered nurse, advanced nurse practitioner, physician, or
nonphysician mental health professional ~~[certified or~~
~~appropriately credentialed mental health professional]~~ from
recommending that a child be evaluated by a physician or
nonphysician mental health professional ~~[an appropriate medical~~
~~practitioner]~~; or

(3) prohibit a school employee from discussing any
aspect of a child's behavior or academic progress with the child's

1 parent or another school district employee.

2 SECTION 1.22. Section 38.051(b), Education Code, is amended
3 to read as follows:

4 (b) On the recommendation of an advisory council
5 established under Section 38.058 or on the initiative of the board
6 of trustees or the governing body of an open-enrollment charter
7 school, a school district or open-enrollment charter school may
8 establish a school-based health center at one or more campuses [~~in~~
9 ~~the district~~] to meet the health care needs of students and their
10 families.

11 SECTION 1.23. Section 38.054, Education Code, is amended to
12 read as follows:

13 Sec. 38.054. CATEGORIES OF SERVICES. The permissible
14 categories of services are:

- 15 (1) family and home support;
16 (2) physical health care, including immunizations;
17 (3) dental health care;
18 (4) health education; [~~and~~]
19 (5) preventive health strategies; and
20 (6) treatment for mental health conditions or
21 substance abuse.

22 SECTION 1.24. Section 38.057(b), Education Code, is amended
23 to read as follows:

24 (b) If it is determined that a student is in need of a
25 referral for physical health services or mental health services,
26 the staff of the center shall notify the person whose consent is
27 required under Section 38.053 verbally and in writing of the basis

1 for the referral. The referral may not be provided unless the
2 person provides written consent for the type of service to be
3 provided and provides specific written consent for each treatment
4 occasion or for a course of treatment that includes multiple
5 treatment occasions of the same type of service.

6 SECTION 1.25. Section 38.058, Education Code, is amended to
7 read as follows:

8 Sec. 38.058. HEALTH EDUCATION AND HEALTH CARE ADVISORY
9 COUNCIL. (a) The board of trustees of a school district or the
10 governing body of an open-enrollment charter school may establish
11 and appoint members to a local health education and health care
12 advisory council to make recommendations to the district or school
13 on the establishment of school-based health centers and to assist
14 the district or school in ensuring that local community values are
15 reflected in the operation of each center and in the provision of
16 health education.

17 (b) A majority of the members of the council must be parents
18 of students enrolled in the school district or open-enrollment
19 charter school. In addition to the appointees who are parents of
20 students, the board of trustees or governing body shall also
21 appoint at least one person from each of the following groups:

- 22 (1) teachers;
- 23 (2) school administrators;
- 24 (3) licensed health care professionals;
- 25 (4) the clergy;
- 26 (5) law enforcement;
- 27 (6) the business community;

- 1 (7) senior citizens; and
- 2 (8) students.

3 SECTION 1.26. Subchapter B, Chapter 38, Education Code, is
4 amended by adding Section 38.0591 to read as follows:

5 Sec. 38.0591. ACCESS TO MENTAL HEALTH SERVICES. The
6 agency, in cooperation with the Health and Human Services
7 Commission, shall develop guidelines for school districts
8 regarding:

9 (1) partnering with a local mental health authority
10 and with community mental health services providers and substance
11 abuse services providers to increase student access to school-based
12 mental health services; and

13 (2) obtaining school-based mental health services
14 through the medical assistance program under Chapter 32, Human
15 Resources Code.

16 SECTION 1.27. Section 38.060(c), Education Code, is amended
17 to read as follows:

18 (c) The school district or open-enrollment charter school
19 [council] shall keep a record of efforts made to coordinate with
20 existing providers.

21 SECTION 1.28. Subchapter O-1, Chapter 161, Health and
22 Safety Code, is transferred to Chapter 38, Education Code,
23 redesignated as Subchapter G, Chapter 38, Education Code, and
24 amended to read as follows:

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

27 Sec. 38.301 [~~161.325~~]. MENTAL HEALTH PROMOTION AND

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

13 (b) Each school district may select from the list provided
14 under Subsection (a) a program or programs appropriate for
15 implementation in the district.

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

- 18 (1) early mental health intervention;
- 19 (2) mental health promotion [~~and positive youth~~
20 ~~development~~];
- 21 (3) substance abuse prevention;
- 22 (4) substance abuse intervention; [~~and~~]
- 23 (5) suicide prevention;
- 24 (6) grief-informed and trauma-informed practices;
- 25 (7) building skills related to managing emotions,
26 establishing and maintaining positive relationships, and
27 responsible decision-making;

1 (8) positive behavior interventions and supports, and
2 positive youth development; and

3 (9) safe and supportive school climate.

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

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

12 (1) recognize students at risk of committing suicide,
13 including students who are or may be the victims of or who engage in
14 bullying;

15 (2) recognize students displaying early warning signs
16 and a possible need for early mental health or substance abuse
17 intervention, which warning signs may include declining academic
18 performance, depression, anxiety, isolation, unexplained changes
19 in sleep or eating habits, and destructive behavior toward self and
20 others; and

21 (3) intervene effectively with students described by
22 Subdivision (1) or (2) by providing notice and referral to a parent
23 or guardian so appropriate action, such as seeking mental health or
24 substance abuse services, may be taken by a parent or guardian.

25 (e) [(c)] In developing the list of programs, the agency
26 [department] and the Health and Human Services Commission [Texas
27 Education Agency] shall consider:

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

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

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

16 (g) [~~(e-2)~~] If a school district provides the training
17 under Subsection (f) [~~(e-1)~~]:

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

20 (2) the school district shall maintain records that
21 include the name of each district employee who participated in the
22 training.

23 (h) A [~~(d)~~ ~~The board of trustees of each~~] school district
24 shall develop practices and procedures [~~may adopt a policy~~]
25 concerning each area listed in Subsection (c), including mental
26 health promotion and intervention, substance abuse prevention and
27 intervention, and suicide prevention that:

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

7 (2) includes [~~establishes~~] a procedure for providing
8 notice of a student identified as at risk of committing suicide to a
9 parent or guardian of the student within a reasonable amount of time
10 after the identification of early warning signs as described by
11 Subsection (d)(2) [~~(b)(2)~~];

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

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

21 (i) [(e)] The practices and procedures developed under
22 Subsection (h) [policy] must prohibit the use without the prior
23 consent of a student's parent or guardian of a medical screening of
24 the student as part of the process of identifying whether the
25 student is possibly in need of early mental health or substance
26 abuse intervention or suicide prevention.

27 (j) [(f)] The practices [~~policy~~] and [~~any necessary~~]

procedures developed [~~adopted~~] under Subsection (h) [~~(d)~~] must be included in:

(1) the annual student handbook; and

(2) the district improvement plan under Section [11.252](#) [~~, Education Code~~].

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

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

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

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

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

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

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

or

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code.

ARTICLE 2. CONFORMING AMENDMENTS

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

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

SECTION 2.02. Section 38.0141, Education Code, is amended to read as follows:

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

ARTICLE 3. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 3.01. The following provisions of the Education

1 Code are repealed:

2 (1) Section 21.463; and

3 (2) Section 28.002(w).

4 SECTION 3.02. (a) Not later than December 1, 2017, the Texas
5 Education Agency, in cooperation with the Health and Human Services
6 Commission, shall establish the Internet website to provide
7 resources for school employees, as required by Section 21.462,
8 Education Code, as added by this Act.

9 (b) Not later than March 1, 2018:

10 (1) the State Board for Educator Certification shall
11 propose rules under Section 21.054, Education Code, to comply with
12 the changes in law made to that section by this Act; and

13 (2) the Texas Education Agency, in cooperation with
14 the Health and Human Services Commission, shall develop the
15 guidelines required by Section 38.0591, Education Code, as added by
16 this Act.

17 (c) Not later than August 1, 2018, the Texas Education
18 Agency, in coordination with the Health and Human Services
19 Commission and regional education service centers, shall provide a
20 list of recommended best practice-based programs as required by
21 Section 38.301, Education Code, as transferred, redesignated, and
22 amended by this Act.

23 SECTION 3.03. Any change in law made by this Act that
24 imposes a new duty or requirement on a school district or an
25 open-enrollment charter school applies beginning with the
26 2018-2019 school year.

27 SECTION 3.04. This Act takes effect September 1, 2017.