

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3880
By: Dutton et al. (Paxton)
Education
5/21/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas law allows dyslexia to be treated differently than other disabilities by not providing the protections of the Individuals with Disabilities Education Act (IDEA). This denial begins when a disability (dyslexia) is suspected and schools are not required to provide a Full Individual Evaluation (FIE). H.B. 3880 seeks to rectify these systemic problems.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 3880 amends current law relating to a student's eligibility for special education services provided by a school district, including services for dyslexia and related disorders.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of education in SECTION 10 (Section 29.0031, Education Code) and SECTION 17 of this bill.

Rulemaking authority previously granted to the State Board of Education is rescinded in SECTION 16 (Section 38.003, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Education Agency is rescinded in SECTION 16 (Section 38.003, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Beckley Wilson Act.

SECTION 2. Amends Section 7.028(a), Education Code, to delete existing text creating an exception under Section 38.003 (Screening and Treatment for Dyslexia and Related Disorders).

SECTION 3. Amends Section 7.102(c)(28), Education Code, as follows:

(28) Requires the State Board of Education (SBOE) to develop and update, as necessary, guidance information for school districts on evidence-based practices for intervention and instruction of students with dyslexia and related disorders and incorporate in the information input from a broad-based dialogue with educators and experts in the field of reading and dyslexia and related disorders from across the state. Prohibits the guidance information from addressing the evaluation and identification of students with dyslexia or a related disorder or how intervention and instruction are to be accessed by a student. Deletes existing text requiring SBOE to approve a program for testing students for dyslexia and related disorders as provided by Section 38.003.

SECTION 4. Amends Section 11.252(a), Education Code, to require that the district improvement plan include provisions for strategies for improvement of student performance that include evidence-based practices that address the needs of students for special programs, including special education programs, rather than dyslexia treatment programs.

SECTION 5. Amends Section 21.003, Education Code, by adding Subsection (b-1), as follows:

(b-1) Requires a school district to employ a person to provide services to students with dyslexia and related disorders who may be a therapist, practitioner, specialist, or interventionist. Provides that the person hired under this subsection is not required to hold a certificate or permit issued under Subchapter B (Certification of Educators) in special education but is required to:

(1) hold an appropriate license, including a license issued under Chapter 403 (Licensed Dyslexia Practitioners and Licensed Dyslexia Therapists), Occupations Code;

(2) hold a certification issued by an appropriate association or have received training from an appropriate training provider, including an academic language practitioner or therapist certified by the Academic Language Therapy Association; or

(3) if a person qualified under Subdivision (1) or (2) is not available, meet the applicable training requirements for the position adopted by the commissioner of education (commissioner) by rule.

SECTION 6. Amends Section 28.006(g-2), Education Code, as follows:

(g-2) Requires a school district, in accordance with a notification program developed by the commissioner by rule, to notify the parent or guardian of each student determined, on the basis of a screening under Section 29.0031, rather than under Section 38.003, or other basis, to be at risk for dyslexia or a related disorder, rather than have dyslexia or a related disorder, or determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties, of the program maintained by the Texas State Library and Archives Commission providing students with reading disabilities the ability to borrow audiobooks free of charge.

SECTION 7. Amends Section 29.001, Education Code, as follows:

Sec. 29.001. STATEWIDE PLAN. Requires the Texas Education Agency (TEA) to also develop and implement a statewide plan with programmatic content that includes procedures designed to:

(1)-(4) makes no changes to these subdivisions;

(5) allow TEA to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section and Section 29.0031 are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Sections 48.008 (Public Education Information Management System (PEIMS)) and 48.009 (Required PEIMS Reporting) are accurate and complete;

(6)-(9) makes no changes to these subdivisions;

(10) and (11) makes nonsubstantive changes to these subdivisions;

(12) ensure the integration of technology to accommodate students with dyslexia and related disorders; and

(13) ensure that training opportunities, including continuing education that satisfies the requirements of Section 21.054(b) (relating to requiring that continuing education requirements for an educator who teaches students with dyslexia include training regarding new research and practices in educating students with dyslexia):

(A) are accessible to school districts by developing a list of training opportunities regarding dyslexia and related disorders that comply with the knowledge and practice standards of an international organization on dyslexia; and

(B) assist an educator or dyslexia service provider in understanding and recognizing dyslexia and providing multisensory, structured instruction that is systematic, explicit, and evidence-based to meet the educational needs of students with dyslexia.

SECTION 8. Amends Section 29.002, Education Code, as follows:

Sec. 29.002. New heading: DEFINITIONS. Defines, for purposes of Subchapter A (Special Education Program):

(1) "special education;" and

(2) "student with a disability" to mean a student evaluated in accordance with Section 29.004 (Full Individual and Initial Evaluation) and the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) as having:

(A) an intellectual disability, a hearing impairment including deafness, a visual impairment including blindness, a serious emotional disturbance, an orthopedic impairment, autism, a traumatic brain injury, a speech or language impairment, deaf-blindness, multiple disabilities, any other health impairment, or a specific learning disability and who, as a result of the disability, needs special education;

(B) noncategorical early childhood developmental delays that prevent the student from being adequately or safely educated in a public school without receiving special education; or

(C) dyslexia or a related disorder and who, as a result of the dyslexia or the related disorder, needs special education.

Deletes existing text defining "special services."

SECTION 9. Amends Section 29.003(b), Education Code, as follows:

(b) Provides that a student is eligible to participate in a school district's special education program if the student is not more than 21 years of age and is identified as a student with a visual or hearing impairment, is at least three years of age but not more than 21 years of age and has been identified as a student with a disability other than a visual or hearing impairment, or is at least three years of age but not more than five years of age and the student is a student evaluated as having noncategorical early childhood developmental delays as described by Section 29.002(2)(B).

Deletes existing text providing that a student is eligible to participate in a school district's special education program if the student 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 and has one or more of certain disabilities that prevents the student from being adequately or safely educated in public school without the provision of special services. Makes nonsubstantive changes.

SECTION 10. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.0031, as follows:

Sec. 29.0031. DYSLEXIA AND RELATED DISORDERS. (a) Requires a school district to:

- (1) screen students for dyslexia and related disorders;
- (2) notify the parent of or person standing in parental relation to each student who is determined to be at risk for dyslexia or a related disorder that the student is at risk; and
- (3) make a good faith effort to ensure that the notice provided under Subdivision (2):
 - (A) is clear and easy to understand;
 - (B) is in the recipient's native language; and
 - (C) includes information about the student's data and measurements that led to the determination that the student is at risk for dyslexia or a related disorder.

(b) Requires the school district, on determining that a student is at risk for dyslexia or a related disorder, to implement a multisensory, structured reading instruction program as an intervention as part of the district's multi-tiered systems of support under Section 26.0081 (Right to Information Concerning Special Education and Education of Students With Learning Difficulties) that, to the extent possible, incorporates training provided to teachers under Section 21.4552 (Teacher Literacy Achievement Academies). Requires the district to determine the form, content, and timing of a program provided under this subsection, subject to requirements for the program established by the commissioner by rule. Prohibits the program adopted under this subsection from being used to delay an evaluation for special education services under Section 29.004 (Full Individual and Initial Evaluation).

(c) Authorizes only a person who meets the qualifications for employment by a school district to provide services to students with dyslexia and related disorders under Section 21.003(b-1) to perform screenings for dyslexia and related disorders and implement reading instruction programs as required by this section.

(d) Requires the commissioner to adopt rules as necessary to implement this section. Requires that the rules:

- (1) require a universal screening for each student for dyslexia and related disorders:
 - (A) at the end of the school year in kindergarten; and
 - (B) before the end of the school year in first grade;
- (2) establish, in coordination with experts and educators in the field of reading and dyslexia and related disorders from across the state, the screening requirements under Subsection (a);
- (3) establish the requirements for reading instruction programs provided under Subsection (b); and
- (4) establish the personnel required to administer dyslexia intervention in accordance with Section 21.003(b-1).

SECTION 11. Amends Section 30.001(b), Education Code, to require that the plan for the coordination of services to children with disabilities in each region served by a regional education service center include procedures for ensuring services provided for students with dyslexia and related disorders align with guidance on evidence-based practices developed by SBOE under Section 7.102(c)(28). Makes conforming and nonsubstantive changes.

SECTION 12. Amends Section 30.002(g), Education Code, to make a conforming change.

SECTION 13. Amends Section 37.146(a), Education Code, to make a conforming change.

SECTION 14. Amends Section 48.103, Education Code, by amending Subsections (b) and (c) and adding Subsection (c-1), as follows:

(b) Provides that a school district is entitled to an allotment under Subsection (a) (relating to providing that a school district is entitled to an annual allotment for each student that a school district serves who has been identified as having dyslexia or a related disorder) only for a student who is receiving instruction that meets applicable dyslexia intervention components, rather than dyslexia program criteria, established by SBOE or TEA.

(c) Requires a school district to:

(1) receive, rather than authorizes a school district to receive, funding for a student under Section 48.103 (Allotment for Student with Dyslexia or Related Disorder) and Section 48.102 (Special Education) if the student satisfies the requirements of both sections;

(2) allocate money received under Subdivision (1) to the district's special education budget; and

(3) prioritize the use of money received under Subdivision (1) for the employment and retention of district employees who are specially trained to evaluate, identify, and provide services for dyslexia and related disorders, including a person described by Section 21.003(b-1).

(c-1) Authorizes a school district to only use funding received under Section 48.103 to supplement the district's special education budget and not to offset or deduct from the district's special education budget.

SECTION 15. (a) Provides that a joint interim committee (committee) is established to study methods for screening and testing students for dyslexia and the appropriate instruction for students with dyslexia and related disorders.

(b) Requires the committee to assess:

(1) the method and efficiency with which dyslexia programs are delivered to students;

(2) whether the dyslexia screening process used by school districts correctly identifies students with dyslexia and provides the intervention and curriculum necessary for those students;

(3) whether the implementation of recommended methodologies for students with dyslexia in the elementary grades is successful and appropriate;

(4) methods to properly enforce and provide oversight of dyslexia programs;

(5) parental rights related to dyslexia screening and programs;

(6) methods to ensure federal funds received to support special education instruction for students with dyslexia are used to provide students with the best evidence-based multisensory systematic language therapy intervention available; and

(7) the effectiveness of educator incentives for dyslexia programs.

- (c) Provides that the committee consists of eight certain members and sets forth the composition of the committee.
- (d) Requires the speaker of the Texas House of Representatives (house) and the lieutenant governor to each designate a co-chair from among the committee members.
- (e) Provides that the committee has all other powers and duties provided to a special or select committee by the rules of the Texas Senate (senate) and house by Subchapter B, Chapter 301, Government Code, and by policies of the senate and house committees on administration.
- (f) Requires the committee, not later than December 1, 2022, to report the committee's findings and recommendations to the governor and the members of the legislature.
- (g) Provides that the committee established under this section is abolished and this section expires December 10, 2022.

SECTION 16. Repealer: Section 38.003 (Screening and Treatment for Dyslexia and Related Disorders), Education Code.

Repealer: Section 38.0031 (Classroom Technology Plan for Students With Dyslexia), Education Code.

Repealer: Section 38.0032 (Dyslexia Training Opportunities), Education Code.

SECTION 17. (a) Provides that this Act applies beginning with the 2022-2023 school year.

- (b) Requires the commissioner, as soon as is practicable after the effective date of this Act, to adopt rules necessary to implement this Act using a negotiated rulemaking process under Chapter 2008 (Negotiated Rulemaking), Government Code.
- (c) Requires each school district, as soon as is practicable after the effective date of this Act, to notify the parent or person standing in parental relation to a student who has been identified as having dyslexia or a related disorder and who received dyslexia intervention and instructional support in accordance with Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), during the 2021-2022 school year of the parent's or person's rights to have the student continue that support and to request a full individual evaluation under Section 29.004, Education Code. Requires the commissioner to develop and make available a model notice that a school district is required to use to provide the notice required by this subsection.
- (d) Requires TEA, not later than September 1, 2022, to provide informal guidance to school districts on the evaluation and identification of students with dyslexia or a related disorder in accordance with this Act.

SECTION 18. Effective date: September 1, 2021.