

- SUBJECT:** Transfer for student victims of certain crimes and their siblings
- COMMITTEE:** Public Education — favorable, with amendment
- VOTE:** 8 ayes — Grusendorf, Branch, Dawson, Dutton, Eissler, Griggs, Hochberg, Madden
0 nays
1 absent — Oliveira
- WITNESSES:** For — Bill Ames; Lonnie Hollingsworth, Texas Classroom Teachers Association; Anne Newman, Texas Justice Foundation; Linda Schlueter, Texas Justice Foundation; Paul Shonebarger; Richard Clayton Trotter;
Against — None
- BACKGROUND:** Education Code, ch. 25, subch. B governs the transfer of students from one public school to another. It provides that the board of trustees of a school district, the board of county school trustees, or a school employee designated by the board may assign and transfer any student from one school facility or classroom to another within its jurisdiction. Those entities must make the decision concerning the transfer of a student on an individual basis and may not consider any matter relating to the student's national origin or ancestral language.
- The parent of a student may by written petition request the assignment or transfer of the student to a designated school or to a school to be designated by the board. On receiving such a petition, the board must hold a hearing if one is requested. The petitioner may present evidence about the individual student at the hearing, and the board may conduct investigations, examine any student involved, and employ agents for those purposes. The board must grant the request unless it determines that there is a reasonable basis for denying it. The decision of the board is final unless the student or parent files exception to the decision as constituting a denial of any right guaranteed under the U.S. Constitution. If the exception is overruled, the parent or student may appeal the board's decision in district court.

DIGEST:

HB 1857, as amended, would require, on the request of a parent or other person with authority to act on behalf of a student, the board of trustees of the school district to transfer the victim of certain criminal conduct or the victim's sibling to a district campus other than:

- the campus to which the victim or sibling was assigned at the time the conduct occurred; or
- the campus to which the student who committed the conduct was assigned, if that student had been assigned to a different campus since the conduct occurred.

The mandatory transfer provisions would apply to:

- a student who was the victim of assault causing bodily injury, aggravated assault, sexual assault, or aggravated sexual assault, that occurred on or off of school property; or
- a sibling of a student who was a victim of an assault described above and who was assigned to the same campus as the victim.

In making a transfer, a school district would have to consider input from the parent or other person with authority to act on behalf of the student regarding the campus location of the transfer. The general Education Code provisions for transfers would not apply.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS
SAY:

HB 1857 as amended would help protect students who had been assaulted from being re-victimized by the perpetrator or the perpetrator's friends. Student victims who remain in the same school as the perpetrator run the risk not only of further physical abuse, but also the psychological trauma of repeatedly encountering the perpetrator in the school environment and reliving the horror of the events. For these reasons, remaining at the same school as the perpetrator undermines the victim's ability to learn.

Furthermore, a perpetrator might seek retaliation against the victim, or the victim's sibling, for cooperating with a criminal investigation or having the

perpetrator punished administratively by the school. HB 1858 as amended would prevent victims of violent crime and their siblings from having to live in daily fear of the perpetrator.

Youth within the United States already are afraid of violence in schools. A 1996 Children's Institute International Poll of American Adolescents revealed that 47 percent of all teens believed their schools were becoming more violent, 10 percent feared being shot or hurt by classmates carrying weapons, and more than 20 percent were afraid to go to restrooms because these unsupervised areas were frequent sites of victimization. HB 1857 as amended would give parents a needed tool to reduce children's anxiety and ensure that youths who were victimized once were not put in jeopardy of further victimization by the same perpetrators.

Current law is not sufficient to address parents' concerns because the board can deny any request for a transfer if it feels there is a reasonable basis for doing so, and the board has 30 days to make its decision. Transfers for students who were victimized should be automatic and immediate due to the serious potential harm that could befall a victim or sibling who remained at school with a perpetrator.

**OPPONENTS
SAY:**

HB 1857 is not necessary. Parents already have sufficient due process rights under the Education Code to petition for a student's transfer, and they are entitled to a hearing. The board must grant the request for transfer unless it determines that there is a reasonable basis for denying it. Furthermore, the parent or student could appeal a decision in district court if it denied the student any right under the U.S. Constitution.

This bill inappropriately would remove the board's discretion with regard to a transfer. A parent only would have to make an allegation of certain criminal conduct against the child and would not have to offer any proof of the allegations. Further, the bill is overly broad. A sibling of a victim should not have a right to an automatic transfer if the sibling has not received threats of any kind as a result. For example, just because a sibling was slapped, which constitutes assault with bodily injury, does not mean that a student cannot safely remain at his or her current school.

OTHER
OPPONENTS
SAY:

HB 1857 would single out particular kinds of violent behavior as grounds for mandatory transfer but would not include threats, which can be just as dangerous as violent acts. Earlier this year at Reagan High School in Austin, a student was murdered by her ex-boyfriend who previously had threatened her. Threats oftentimes are serious, and parents should have the right to transfer their children as a result and prevent future violence against them.

NOTES:

The committee amendment would modify the following provisions in the bill as introduced:

- a transfer for a student victim would have been mandatory only if the student perpetrator had been placed in an alternative education program or expelled as a result of the assaultive conduct;
- a transfer for a sibling would have been mandatory only for those who received a threat in connection with the conduct; and
- a transfer to any campus would have been required to meet the approval of the parent or other person with authority to act on behalf of the student.