

SUBJECT: Bullying and suicide prevention policies and procedures in public schools

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Kolkhorst, Naishtat, Coleman, S. Davis, V. Gonzales, S. King, Truitt, Zerwas

2 nays — Laubenberg, Schwertner

1 absent — Alvarado

WITNESSES: For — Frank Knaack, American Civil Liberties Union of Texas; Megan Mooney; (*Registered, but did not testify*: Tom Banning, Texas Academy of Family Physicians; Chase Bearden, Chuck Smith, Coalition of Texans with Disabilities; Dennis Coleman, Equality Texas; Michael Gutierrez; Ashley Harris, Texans Care for Children; Christopher Kaiser, Texas Association Against Sexual Assault; Nancy Katharine Ligon, Mental Health of American Houston; Diana Martinez, TexProtects, The Texas Association for the Protection of Children; Ted Melina Raab, Texas AFT; Susan Milam, National Association of Social Workers Texas Chapter; Robin Peyson, National Alliance on Mental Illness Texas; Robin Rumancik, Texas Counseling Association; Frank Sturzl, City of Arlington, Texas; Amy Truong; David Truong; Paige Williams, Texas Classroom Teachers Association; John R. Pitts, Legacy Health Care Clinics; *On committee substitute*: Tricia Elliot, Texas Academy of Family Physicians; Merily Keller, Texas Suicide Prevention Council and Mental Health America of Texas)

Against — Melissa Cochran; MerryLynn Gerstenschlager, Texas Eagle Forum; Glenn McIntosh; Amy Philo, UNITE for Life and Children and Adults Against Drugging America; Lee Spiller, Citizens Commission on Human Rights; (*Registered, but did not testify*: Monica Ayres; Jackie Cochran; Gareth Ellzey; Heather Fazio, Texans for Accountable Government; Paul Hastings, Texas Home School Coalition; Ann Hettinger, Beverly Roberts, Concerned Women for America of Texas; Kathryn Jackson; Corrina Kalish; Jean Lefebvre; Michael McGeary; Taylor Metting; Paul Norris; Alexandra Perry; Tiffany Ross; Jonathan Saenz, Liberty Institute; Anna Searles; Chanda Seymour; Claudia Smith,

Citizens Commission on Human Rights; Travis Snavely; Salila Travers; Savita Wadhvani; Eric Whittier)

On — Colleen Horton, Hogg Foundation for Mental Health; (*Registered, but did not testify*: Angela Hobbs-Lopez, Department of State Health Services)

BACKGROUND: Education Code, ch. 37 requires all school districts to maintain a student code of conduct that must:

- specify the circumstances under which a student may be removed from a classroom, campus, or disciplinary alternative education program;
- specify conditions that authorize or require a principal or administrator to transfer a student to a disciplinary alternative education program;
- outline conditions under which a student may be suspended or expelled and provide guidelines for the length of a suspension or expulsion;
- specify that consideration is given to self-defense as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion; and
- address the notification of a student's parent or guardian of a violation of the student code of conduct resulting in suspension, removal to a disciplinary alternative education program, or expulsion.

After an opportunity for a hearing, a school district board of trustees may place a student in a disciplinary alternative education program if his or her presence in the regular classroom threatens the safety of other students or teachers, will be detrimental to the educational process, or is not in the best interests of the students regardless of whether the offense occurred on or off school property.

Sec. 25.0342, Education Code permits the board of trustees or its designee to transfer a victim of bullying to another classroom or campus upon the request of the student's parent or guardian.

Bullying behavior is defined as engaging in written or verbal expression or physical conduct that a school board determines will harm a student physically, damage a student's property, or place a student in reasonable

fear of harm or damage, or that is severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment. The board may consider past student behavior when identifying a bully. The determination by the board is final and may not be appealed. A school district is not required to provide transportation to a student who transfers to another campus due to bullying behavior.

DIGEST:

CSHB 1386 would establish certain early intervention mental health and suicide programs in public schools and would require school districts to develop policies on bullying.

Suicide prevention and early mental health intervention. The bill would require the Department of State Health Services (DSHS), with the Texas Education Agency (TEA), to provide and update annually a list of recommended best practices for early mental health intervention and suicide prevention programs to be implemented in public schools. Each school district could select programs from the list for implementation.

DSHS and TEA would have to consider any existing suicide prevention method developed by a school district and any online course or program developed based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

The programs on the list would have to include components that provided for training counselors, teachers, nurses, administrators, and other staff and law enforcement officers and social workers who interacted regularly with students to:

- recognize students at risk of committing suicide;
- recognize victims and perpetrators of bullying behavior;
- recognize students displaying early warning signs of mental health issues; and
- intervene effectively with the student or provide notice to a parent or guardian.

Each school district board could adopt a policy or procedure to:

- establish a procedure to provide notice to a parent or guardian;
- establish the actions to be taken to obtain assistance and intervention; and

- describe for a parent or guardian the optional counseling alternatives available for the child.

Policies and procedures adopted by a school district would have to be included in the annual student handbook and the district improvement plan.

The bill specifies that the intention would be to notify a parent or guardian of a need for mental health intervention, not to interfere with the rights of parents or guardians. The bill would not give school districts the authority to prescribe medications, and all medical decisions would be made by the parent or guardian.

DSHS could solicit and accept a gift, grant, or donation from any source for these purposes. By January 1, 2013, DSHS would have to submit a report to the Legislature relating to list development and implementation in school districts.

Bullying prevention. The bill would define bullying as engaging in written or verbal expression, expression through electronic means, or physical conduct that occurred on school property at a school-sponsored event or school-related activity, or in a vehicle operated by the district. To be considered bullying, the behavior would have to physically harm the student, damage the student's property, or place a student in reasonable fear of harm or damage. The behavior would have to be severe, persistent, and pervasive enough that it created an intimidating, threatening, or abusive educational environment for the student, exploited an imbalance of power between the student perpetrator and the student victim, and interfered with a student's education or substantially disrupted the operation of a school.

Policies and procedures to handle and prevent bullying. The bill would add preventing, identifying, responding to, and reporting incidents of bullying to the list of possible staff development training topics. The board of trustees of each school district would be required to adopt a policy on bullying that would:

- prohibit the bullying of a student;
- prohibit retaliation against any person who provided information on an incident of bullying, including a victim or witness;

- establish a procedure to notify a parent or guardian of the victim and the bully within a reasonable amount of time after the incident;
- set out the available counseling options for a student who was a victim of or a witness to bullying or who engaged in bullying; and
- establish procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred.

The policy and procedures would have to be included in any student or employee school district handbook and the district improvement plan. The procedure for reporting bullying would have to be posted on the district's website, as practicable.

Any act of bullying committed by a student receiving special education services would have to be addressed through the admission, review, and dismissal committee process and the student's individualized education program plan. The committee would have to consider the relationship between the behavior and the disability and whether the disability contributed to the manifestation of the behavior. Any change in placement of a student receiving special education services would have to be approved by the committee.

Essential knowledge and skills. The bill would require that the essential knowledge and skills for the health curriculum include evidence-based practices that effectively addressed awareness, prevention, identification, and resolution of bullying and harassment. The State Board of Education would have to consult with the Texas School Safety Center before adopting the essential knowledge and skills.

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, 2011. The bill would apply beginning with the 2012-2013 school year.

**SUPPORTERS
SAY:**

CSHB 1386 would help protect the emotional well-being of all students by assisting in the identification of early indicators of mental illness and suicidal thoughts. The bill also would address the pervasive issue of bullying in public schools, which increasingly leads to mental illness and youth suicide.

Effect on students. Bullying negatively impacts the environment in which students learn and prevents students from developing healthy behaviors and self-esteem. The short- and long-term effects of bullying on both the bully and the victim are well documented. The most serious effect is the increasing number of students committing suicide caused by the intense devaluation of self.

The short-term effects of bullying on the victim include anxiety, intense insecurity, physical injury in some cases, and chronic absenteeism. Victims can experience psychosomatic symptoms, such as headaches and stomach pains. Over time, the humiliation, distress, and confusion often lead to low self-esteem, and the student begins to see himself or herself as a failure. Persistent bullying during the school years can have a negative impact on the victim for many years after school, as victims tend to be more depressed and possess lower self-esteem than their nonvictimized peers.

Maintain local control. The state should be involved in crafting the approach taken to bullying behavior and suicide prevention because of the seriousness of the issue. Students and parents have indicated anecdotally that reporting harassment and bullying to school personnel does not result in action. The bill would afford a reasonable amount of local discretion while specifying the state's expectations for student behavior. To prevent bullying behavior, state policy must emphasize the need for an antibullying culture in Texas public schools.

The bill would provide many research-based suicide prevention programs and mental illness intervention programs from which the district could choose. This approach would permit the state to ensure that assessments made by school districts were motivated by knowledge and best practices and also would permit the school district to select the program or combination of programs that would best suit the district.

Staff development training. The bill would provide guidance to local school districts to include antibullying topics in staff development training. The bill also would identify training concepts to educate counselors, teachers, nurses, administrators, and other staff and law enforcement officers and social workers on how to help a student at risk of suicide or mental illness. Prescribing a more specific training for teachers and other school personnel would impose a costly unfunded mandate on school districts.

Suicide prevention and early warning sign detection. Public schools should not turn a blind eye to the increasing numbers of students suffering from psychiatric illness and committing suicide. Students spend most of their time in school, which places teachers and other school personnel in a unique position to notice subtle changes in a student's demeanor. If teachers and other school administrators are equipped with the means to notify parents of their observations, the knowledge base from which a parent could make decisions about his or her child would increase dramatically. A parent would not be obligated to take specific action, if any.

Claims that the bill would label students unfairly and increase the number of students on psychiatric drugs are unwarranted. A school district cannot give a medical diagnosis, nor can it dispense medication. Parents would maintain sole discretion when choosing treatment, if any, for the child.

Bully prevention and management. CSHB 1386 would provide a preventive approach to reducing bullying behavior. This would be the most effective way to combat bullying because research shows that most bullying behavior is learned from the student's environment. Effective policies include components to improve peer relations, provide meaningful intervention, develop clear rules to stop bullying behavior, and support and protect victims. These components are the basis of a program that within two years of implementation resulted in these outcomes:

- bullying behavior dropped by 50 percent or more;
- behavioral changes became more pronounced the longer the program was in effect;
- the school climate improved; and
- the rate of antisocial behavior, such as vandalism, theft, and truancy, declined.

Timeframe for parental notification. The bill need not prescribe a specific timeframe for parents to be notified of bullying behavior, since this would be inflexible and difficult to enforce. Requiring a specific timeframe would raise the question of which entity would monitor the school district's actions and what would be an appropriate consequence. The bill's requirement of "reasonable amount of time" would allow local school districts to determine the best procedures for the policy most effective for that district.

Including off-campus activity. School districts should not and cannot be responsible for student activity that occurs off or near campus. The line between on- and off-campus is blurred in case involving text messages or electronic communications sent from or received by a device owned by the school district or located on the district's physical property at the time. The bill would afford a school district the discretion to classify these incidents within or outside of the school district's jurisdiction.

Essential knowledge and skills. The premise behind a preventive approach is that school culture drives student actions. By teaching students about bullying behavior, including its characteristics and appropriate responses to it, students become empowered to self-correct and to correct their peers.

OPPONENTS
SAY:

CSHB 1386 would interfere with the local discretion afforded to local school officials and teachers. While problems exist with bullying, mental illness, and youth suicide in schools, decisions regarding how to handle these problems should remain at the local level.

Suicide prevention and early warning sign detection. The bill would intrude upon a parent's right to determine the appropriate time and necessity for any mental health screening.

It is not the school's role to assess the mental health of students. School involvement to this degree would just label more children, the stigma of which could follow the child throughout his or her life. When school personnel are involved, Child Protective Services (CPS) often follows. CPS involvement can trap parents into certain treatment for fear of the child being removed from the home.

The focus on early indicators of mental illness could steer more kids toward medication. Students do not necessarily need to be medicated. Antidepressants can cause homicidal and suicidal thoughts in young children, even some adults.

Bully prevention and management. School districts determine the expectations for student behavior through the district's student code of conduct, which could include specific antibullying policies. School districts are able to choose the disciplinary action taken in cases where bullying has occurred and to transfer a victim to another classroom or campus at the parent's request.

Teachers and other administrators do not lack the authority to handle bullying behavior or notify a parent of a concern, but may choose not to take action. School boards should be held accountable by local voters if they fail to uphold and enforce existing antibullying laws and policies.

OTHER
OPPONENTS
SAY:

Because of the short- and long-term effects of bullying on the education environment and students, and to prevent youth suicide, CSHB 1386 should include accountability measures to ensure enforcement of the law.

Timeframe for parental notification. The bill should require a specific timeframe in which parents would have to be notified, because the bill's requirement that a parent be notified within a "reasonable amount of time" is vague and would not ensure parental notification.

Staff development training. Since bullying is such a pervasive problem with so many short-term and long-term effects, the training requirements for teachers and other school personnel should be mandatory. A school district's policy to handle and prevent bullying will be wholly ineffective if school personnel do not understand and feel comfortable with the policy and with how to intervene when they recognize bullying behavior.

Inclusion of off-campus activity. School districts should be responsible for staying aware of student activity that occurs near campus or that directly affects the campus educational environment.

A school district needs the implicit authority to act if a student uses school property to harm another student. Since bullying can occur through electronic communications such as text messages or via social networking sites, the victim could receive the communications on a device owned by the school or located on campus. Reading a text message or other form of electronic communication on campus or from any location using a device owned by the school district should be considered "being bullied" on campus, regardless of the sender's location.

NOTES:

A related bill concerning school policies on bullying, HB 1942 by Patrick, passed the House by 94-41 on May 4 and was referred to the Senate Education Committee on May 9. Another related bill, SB 205 by Whitmire, passed the Senate by 29-2 (Birdwell, Nelson) on April 26 and was referred to the House Public Education Committee on May 2.