

SUBJECT: Requiring bullying prevention policies and procedures in public schools

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Eissler, Hochberg, Allen, Aycock, Dutton, Guillen, Huberty, Shelton, T. Smith, Strama

1 nay — Weber

WITNESSES: For — Adrian Moore, Council on At Risk Youth (*Registered, but did not testify*); Sheri Bredeson; Ramiro Canales, Texas Association of School Administrators; Terry Cowan, Association of Substance Abuse Programs Council on At Risk Youth; Monty Exter, Association of Texas Professional Educators; Erin Gamez, Texas Parent Teacher Association; Dwight Harris, Texas AFT; Frank Knaack, American Civil Liberties Union of Texas; Diana Martinez, TexProtexts, The Texas Association for the Protection of Children; Laura Matz, Learning.com; Jeff Miller, Disability Rights Texas; Lauren Rose, Texans Care for Children; Julie Shields, Texas Association of School Boards; Rona Statman, The Arc of Texas; Frank Sturzl, City of Arlington, Texas; Gyl Switzer, Mental Health America of Texas)

Against — MerryLynn Gerstenschlager, Texas Eagle Forum

On — Marc Levin, Texas Public Policy Foundation Center for Effective Justice; Chuck Smith, Equality Texas (*Registered, but did not testify*); Dennis Coleman, Equality Texas; Colleen Horton, Hogg Foundation for Mental Health)

BACKGROUND: Education Code, ch. 37 requires all school district to develop, maintain, and publish a student code of conduct for the district. The student code of conduct 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 other appropriate 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 their length of a suspension or expulsion term;
- 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 committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion.

After an opportunity for a hearing, a school district board of trustees may elect to place a student in a disciplinary alternative education program if the student's 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 district's 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 on request of the student's parent or guardian.

Bullying behavior means engaging in written or verbal expression or physical conduct that a school board or the board's designee determines will harm a student physically, damage a student's property, or place a student in reasonable fear of harm to the student's person or of damage to the student's property or is severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student. This behavior must be verified by the board of trustees or its designee prior to transferring a student. The board of trustees or its designee may consider past student behavior when identifying a bully. The determination by the school board or its designee is final and may not be appealed. A school district is not required to provide transportation to a student who transfers to another campus as a result of bullying behavior.

DIGEST:

CSHB 1942 would require school districts to develop policies on bullying. It would add preventing, identifying, responding to, and reporting incidents of bullying to the list of possible staff development training topics if a district held staff development training.

Bullying defined. 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 on a vehicle operated by the district. To be considered bullying, the behavior would have to have the effect of physically harming the student, damaging the student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property. 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 board of trustees of each school district would be required to adopt a policy on bullying, including any necessary procedures, that would:

- prohibit the bullying of a student;
- prohibit retaliation against any person who in good faith 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 its procedures would have to be included in any student or employee school district handbook and the district improvement plan submitted to the Texas Education Agency under the accountability system. The procedure for reporting bullying would have to be posted on the district's Internet website, as practicable.

Transferring a student who engages in bullying. The bill would allow the school district's board of trustees or its designee to transfer a student engaging in bullying to another classroom or campus. The transfer of a student receiving special education services could be made only by an admission, review, and dismissal 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 and intervention in 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 2011-2012 school year.

**SUPPORTERS
SAY:**

CSHB 1942 would provide a preventive approach to reducing and mitigating the impact of bullying behavior. The state should influence the approach that school districts take to bullying behavior because of the seriousness of the issue. The bill would afford a reasonable amount of local discretion while specifying the state's expectations for student behavior. It is rational to conclude that to prevent bullying behavior state policy must emphasize the need for an anti-bullying culture in Texas public schools.

A preventative approach would be the most effective way to combat bullying because some research shows that 99 percent of bullying behavior is learned from the student's environment. The bill includes the key elements found in effective bullying policies, as identified by Olweus Bullying Prevention Program research. 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 anti-social behavior, such as vandalism, theft and truancy, declined.

Effects on victims. It is important for the state to address the problem of bullying in order to decrease and mitigate its consequences in public schools. Bullying negatively impacts the environment in which students

learn and prevents students from developing healthy behaviors and self esteem.

Bullying can result in a campus that feels less safe and whose students are not excited to learn. The unchecked behavior of the silent observer teaches students to regard the behavior as acceptable. In some cases, the act of a witness not speaking out, like the bystander to hazing, commits an offense against the victim.

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 non-victimized peers.

Effects on those engaging in bullying behavior. Bullying behavior indicates a general tendency toward antisocial and rule-breaking behaviors, which can lead to other criminal behavior, such as vandalism, shoplifting, truancy, and drug use. The bill would ensure that students engaging in bullying behavior received the counseling necessary to improve their well-being so they could become productive and engaged adults.

Impact on criminal justice system. The prevention provisions of CSHB 1942 would help decrease the number of students entering the juvenile and adult criminal justice systems. Students involved in one or more disciplinary incidents are more likely to encounter a referral than those with no school disciplinary contact. Bullies are more likely than non-bullies to be convicted of a crime by the age of 24. Reducing the prevalence of bullying behavior would significantly impact the criminal

justice system by reducing the number of students who learn criminal behavior.

Timeframe for parental notification. The bill need not prescribe a specific time frame for parents to be notified of bullying behavior as such a provision would be inflexible and difficult to enforce. Requiring a specific time frame 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.

Staff development training. The bill would provide guidance to local school districts to include anti-bullying topics in staff development training. However, mandating specific anti-bullying training for teachers and other school personnel would impose a costly unfunded mandate on school districts.

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 the case of text messages or electronic communications sent from or received by a device owned by the school district, whether or not the device was 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 actions to take, students become empowered to self-correct and to correct their peers.

OPPONENTS
SAY:

This bill would impose additional state mandates on local school officials and teachers. While there is no doubt that a problem exists with bullying in schools, decisions regarding how to handle this problem should remain at the local level. The state should not determine a school district's approach to bullying behavior.

School districts determine the expectations for student behavior through the district's student code of conduct, which could include specific anti-

bullying policies. Teachers and other administrators do not lack the authority to handle bullying behavior, but may choose not to take action. 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.

Through the school districts code of conduct, the district can choose to include a preventative approach to bullying behavior and influence the educational culture. School boards should be held accountable by local voters if they fail to uphold and enforce existing anti-bullying laws and policies.

OTHER
OPPONENTS
SAY:

Because of the short- and long-term effects of bullying on the education environment and individual students, CSHB 1942 should include accountability measures to ensure enforcement of the law as well as a specific time frame for parental notification. The bill should require staff development training and include off-campus activity in the jurisdiction of a school district.

Timeframe for parental notification. The bill should require a specific timeframe in which parents had 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. Because 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 their awareness of student activity that occurs near campus or has a direct effect on the campus educational environment.

A school district needs the implicit authority to act if a student uses school property in any manner to harm another student. A student is able to bully another through an electronic communication such as a text message or through a social networking site. It is entirely possible that the recipient

will read the communication on a device owned by the school or on a device located on-campus. If a student reads a text message or other form of electronic communication on campus or from any location using a device owned by the school district, a student should be considered as being bullied “on-campus,” regardless of the sender’s location.