

By: Lindsay

S.B. No. 126

Substitute the following for S.B. No. 126:

By: Keffer of Dallas

C.S.S.B. No. 126

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the discipline, conduct, and transfer of public school
3 students.

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

5 SECTION 1. Section 25.001(b), Education Code, is amended to
6 read as follows:

7 (b) The board of trustees of a school district or its
8 designee shall admit into the public schools of the district free of
9 tuition a person who is over five and younger than 21 years of age on
10 the first day of September of the school year in which admission is
11 sought if:

12 (1) the person and either parent of the person reside
13 in the school district;

14 (2) the person does not reside in the school district
15 but a parent of the person resides in the school district and that
16 parent is a joint managing conservator or the sole managing
17 conservator or possessory conservator of the person;

18 (3) the person and the person's guardian or other
19 person having lawful control of the person under a court order
20 reside within the school district;

21 (4) the person has established a separate residence
22 under Subsection (d);

23 (5) the person is homeless, as defined by 42 U.S.C.
24 Section 11302, regardless of the residence of the person, of either

1 parent of the person, or of the person's guardian or other person
2 having lawful control of the person;

3 (6) the person is a foreign exchange student placed
4 with a host family that resides in the school district by a
5 nationally recognized foreign exchange program, unless the school
6 district has applied for and been granted a waiver by the
7 commissioner under Subsection (e);

8 (7) the person resides at a residential facility
9 located in the district; ~~or~~

10 (8) the person resides in the school district and is 18
11 years of age or older or the person's disabilities of minority have
12 been removed; or

13 (9) the person does not reside in the school district
14 but the grandparent of the person:

15 (A) resides in the school district; and

16 (B) provides a substantial amount of
17 after-school care for the person as determined by the board.

18 SECTION 2. Subchapter B, Chapter 25, Education Code, is
19 amended by adding Section 25.0341 to read as follows:

20 Sec. 25.0341. TRANSFER OF VICTIMS OF BULLYING. (a) In this
21 section, "bullying" means engaging in written or verbal expression
22 or physical conduct that a school district board of trustees or the
23 board's designee determines:

24 (1) will have the effect of physically harming a
25 student, damaging a student's property, or placing a student in
26 reasonable fear of harm to the student's person or of damage to the
27 student's property; or

1 (2) is sufficiently severe, persistent, or pervasive
2 enough that the action or threat creates an intimidating,
3 threatening, or abusive educational environment for a student.

4 (b) On the request of a parent or other person with
5 authority to act on behalf of a student who is a victim of bullying,
6 the board of trustees of a school district or the board's designee
7 shall transfer the victim to:

8 (1) another classroom at the campus to which the
9 victim was assigned at the time the bullying occurred; or

10 (2) a campus in the school district other than the
11 campus to which the victim was assigned at the time the bullying
12 occurred.

13 (c) The board of trustees or the board's designee shall
14 verify that a student has been a victim of bullying before
15 transferring the student under this section.

16 (d) The board of trustees or the board's designee may
17 consider past student behavior when identifying a bully.

18 (e) The determination by the board of trustees or the
19 board's designee is final and may not be appealed.

20 (f) A school district is not required to provide
21 transportation to a student who transfers to another campus under
22 Subsection (b)(2).

23 (g) Section 25.034 does not apply to a transfer under this
24 section.

25 SECTION 3. Section 37.001, Education Code, is amended by
26 amending Subsection (a) and adding Subsections (b), (b-1), and (e)
27 to read as follows:

1 (a) The board of trustees of an independent school district
2 shall, with the advice of its district-level committee established
3 under Subchapter F, Chapter 11, adopt a student code of conduct for
4 the district. The student code of conduct must be posted and
5 prominently displayed at each school campus or made available for
6 review at the office of the campus principal. In addition to
7 establishing standards for student conduct, the student code of
8 conduct must:

9 (1) specify the circumstances, in accordance with this
10 subchapter, under which a student may be removed from a classroom,
11 campus, or disciplinary alternative education program;

12 (2) specify conditions that authorize or require a
13 principal or other appropriate administrator to transfer a student
14 to a disciplinary alternative education program;

15 (3) outline conditions under which a student may be
16 suspended as provided by Section 37.005 or expelled as provided by
17 Section 37.007;

18 (4) specify whether consideration is given, ~~to~~
19 ~~self-defense~~ as a factor in a decision to order suspension,
20 removal to a disciplinary alternative education program, or
21 expulsion, to:

22 (A) self-defense;

23 (B) intent or lack of intent at the time the
24 student engaged in the conduct;

25 (C) a student's disciplinary history; or

26 (D) a disability that substantially impairs the
27 student's capacity to appreciate the wrongfulness of the student's

1 conduct, consistent with Section 37.004;

2 (5) provide guidelines for setting the length of a
3 term of:

4 (A) a removal under Section 37.006; and

5 (B) an expulsion under Section 37.007; ~~and~~

6 (6) address the notification of a student's parent or
7 guardian of a violation of the student code of conduct committed by
8 the student that results in suspension, removal to a disciplinary
9 alternative education program, or expulsion;

10 (7) prohibit bullying, harassment, and making hit
11 lists and ensure that district employees enforce those
12 prohibitions; and

13 (8) provide, as appropriate for students at each grade
14 level, methods, including options, for:

15 (A) managing students in the classroom and on
16 school grounds;

17 (B) disciplining students; and

18 (C) preventing and intervening in student
19 discipline problems, including bullying, harassment, and making
20 hit lists.

21 (b) In this section:

22 (1) "Harassment" means threatening to cause harm or
23 bodily injury to another student, engaging in sexually intimidating
24 conduct, causing physical damage to the property of another
25 student, subjecting another student to physical confinement or
26 restraint, or maliciously taking any action that substantially
27 harms another student's physical or emotional health or safety.

1 (2) "Hit list" means a list of people targeted to be
2 harmed, using:

3 (A) a firearm, as defined by Section 46.01(3),
4 Penal Code;

5 (B) a knife, as defined by Section 46.01(7),
6 Penal Code; or

7 (C) any other object to be used with intent to
8 cause bodily harm.

9 (b-1) The methods adopted under Subsection (a)(8) must
10 provide that a student who is enrolled in a special education
11 program under Subchapter A, Chapter 29, may not be disciplined for
12 conduct prohibited in accordance with Subsection (a)(7) until an
13 admission, review, and dismissal committee meeting has been held to
14 review the conduct.

15 (e) Except as provided by Section 37.007(e), this
16 subchapter does not require the student code of conduct to specify a
17 minimum term of a removal under Section 37.006 or an expulsion under
18 Section 37.007.

19 SECTION 4. Section 37.083(a), Education Code, is amended to
20 read as follows:

21 (a) Each school district shall adopt and implement a
22 discipline management program to be included in the district
23 improvement plan under Section 11.252. The program must provide
24 for prevention of and education concerning unwanted physical or
25 verbal aggression, sexual harassment, and other forms of bullying
26 in school, on school grounds, and in school vehicles.

27 SECTION 5. This Act takes effect immediately if it receives

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2005.