

## **BILL ANALYSIS**

C.S.H.B. 833  
By: Dutton  
Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to Bully Police USA, Texas has approximately 700,000 children between ages 5 to 18 who have been involved in some type of bullying. They are either victims of bullying, or the actual bullies themselves. The longer a child is a victim of bullying, the more likely the trauma will become a lifelong emotional handicap. According to a report by the Federal Bureau of Investigations, victims of bullying, who became bullies themselves, are responsible for three out of the four school shootings. Although the number of suicides caused from bullying have not been researched, it is believed that these bullying victims take out their anger on themselves, rather than face the pain of abuse at school or endure depression that was caused from bullying at school. Although legislation enacted during 79th Legislature did attempt to ban bullying on campuses, it did not arm school districts with a solution as to how to address the problem of bullying, both in person and online. Additionally, school districts lack educational programs that teach students to respect one another.

This bill augments the definition of "harassment" by including an expression made through an electronic medium, or "online bullying" by a person directed against not only a student but at a school employee or volunteer. Additionally, this bill would establish guidelines for implementing a harassment policy to prohibit bullying, and includes training and educational programs for the school district to implement.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Note: Unless otherwise specified, statutory references in this Bill Analysis are to the Education Code.

This bill amends the Education Code to include a definition of "harassment" as meaning an intentional threatening, insulting, or dehumanizing physical act, gesture, or written or oral expression, including an expression made through an electronic medium, by a person directed against a student or school employee or volunteer that the person knows or reasonably should know will: place the student or school employee or volunteer in reasonable fear of harm to the student's, employee's, or volunteer's person or damage to the student's, employee's, or volunteer's property; or because of the severity, persistence, or pervasiveness of the action or expression, create an intimidating, threatening, or abusive educational environment for the student or school employee or volunteer, including by interference with a student's educational performance, opportunities, or benefits or a substantial disruption of the orderly operation of a school.

The bill provides that a school district board of trustees shall adopt a policy prohibiting harassment: on school property; at a school-sponsored or school-related activity or other educational program or activity conducted by the district or a district school; in a school vehicle or at a designated school bus stop; or through the use of school district technology, and further provides that such harassment policy must include: a definition of harassment that complies with the definition provided under Section 37.251; a description of the possible consequences and disciplinary actions that may result from committing an act of harassment; a statement prohibiting retaliation against a person who reports an act of harassment; a description of the possible consequences and disciplinary actions that may result from an allegation of harassment

made in bad faith; a strategy for protecting a victim of harassment from further harassment and retaliation; a procedure for reporting an act of harassment, including a provision that allows a person to anonymously report an act of harassment; a procedure for responding to, promptly investigating, and documenting a report of harassment; a statement designating the school official who will be responsible for investigating a report of harassment; a process for determining whether an investigation of a report of harassment is the responsibility of the school district and, if not, a process for referring the report to the appropriate investigating authority; a procedure for referring victims and perpetrators of harassment to counseling; a requirement that a parent of a student who is a victim of harassment be notified of the incident, any disciplinary action taken against the perpetrator, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any action taken by the district to prevent further acts of harassment by the perpetrator; a procedure for instructing students, parents, and school employees and volunteers on identifying, preventing, and responding to an act of harassment; and a statement encouraging students and school employees and volunteers who have witnessed or have reliable information that a student or school employee or volunteer has been subject to harassment to report the incident to the appropriate designated school official.

The bill provides that such harassment policy must grant all students and school employees and volunteers the same protection, regardless of the legal status of a student or school employee or volunteer, must be integrated with the curriculum, discipline policies, and other violence prevention efforts of the school district, and may not allow a formal disciplinary action to be taken solely on the basis of an anonymous report.

The bill provides that a school district shall provide public notice of such harassment policy, and that the policy must be included in the student code of conduct adopted under Section 37.001 and in any school district employee manual.

The bill provides that the Texas Education Agency (agency) shall develop a model policy that meets the requirements of Sections 37.252(a)-(c), as added by the bill, and shall publish the policy on the agency website, and in any agency publication that states the rules, procedures, and standards of conduct for public schools in this state.

The bill provides that a school district shall implement programs designed to prevent harassment and educate students and school employees and volunteers about the district's harassment policy, including training programs for school employees and volunteers who have direct contact with students, and educational programs for students. and that a district may incorporate such training into an existing employee training program.

The bill provides that a student, parent, or school employee or volunteer is not personally liable for reporting an alleged act of harassment if the person reports the act of harassment promptly and in good faith, makes the report to the appropriate school official designated in the school district's harassment policy, and makes the report in compliance with the procedures provided in the school district harassment policy, and further provides that a school official is not personally liable for failing to remedy a reported incident of harassment.

The bill provides that the provisions of the bill do not create a cause of action or alter an existing cause of action, and may not be construed to prevent a victim of harassment from seeking a remedy under another provision of civil or criminal law; and further provides that the physical location or time of access of an act of harassment made through the use of school district technology may not be raised as a defense in a criminal action or disciplinary proceeding relating to the act of harassment.

The bill provides that, not later than August 1 of each year, a school district shall provide the agency with a report listing, for the preceding school year: each reported incident of harassment that resulted in disciplinary action; and each reported incident of harassment that was determined to be false or not prohibited under the provisions added by this bill. The bill further provides that such a report may not identify any person involved in an actual or alleged incident of harassment, that the agency shall post each school district's report on the agency's Internet website, and that the agency shall include a summary of the information provided to the agency in the report required under Section 39.182.

The bill makes conforming changes to Section 37.001(b)(1), Education Code.

The bill provides that, not later than January 1, 2008, the agency shall adopt a model harassment policy as required by the provisions of this bill, and that, not later than August 1, 2008, a school district board of trustees shall adopt a policy prohibiting harassment as required by the provisions of this bill, and that the policy applies beginning with the 2008-2009 school year unless the board of trustees specifies an earlier date.

#### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The original bill provided that a school district board of trustees shall adopt a policy prohibiting harassment through the use of a district computer, computer network, or other electronic medium. The substitute bill provides that a school district board of trustees shall adopt a policy prohibiting harassment through the use of school district technology.

The original bill provided that the physical location or time of access of an act of harassment made through a computer, computer network, or other electronic medium may not be raised as a defense in a criminal action or disciplinary proceeding relating to the act of harassment. The substitute bill provides that the physical location or time of access of an act of harassment made through the use of school district technology may not be raised as a defense in a criminal action or disciplinary proceeding relating to the act of harassment.