

BILL ANALYSIS

C.S.H.B. 1323
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Although bullying on campus is a longstanding problem in schools across the nation, reported incidences of bullying are on the rise. Modern technology, such as the Internet, cell phones, text messaging, instant messaging, and social networking sites, such as Facebook and MySpace, have contributed to this increase by providing new avenues for aggressive behavior. Students can bully others from cell phones or computers and they can "cyberbully" at the mall, in the school yard, or at home. Modern technology also has allowed bullies to be anonymous, emboldening students and allowing their bullying to become viral and more malicious. At present, Texas lags behind other states in addressing bullying, particularly cyberbullying.

C.S.H.B. 1323 adds written verbal expression through electronic means to the current definition of "bullying" in the Education Code and specifies that the term "bullying" includes behavior on or off school property. The bill adds to an existing provision requiring that a victim be moved at the request of a parent or other responsible adult to another classroom or campus other than that of the bully, to also authorize the transfer of the bully to another classroom or campus at the request of that parent or other adult. The bill requires districts to have a policy on bullying that includes instruction on the definition of bullying and sexual harassment, what students should do if it occurs, and a process for reporting bullying and sexual harassment. The bill requires districts to notify both the bully's parents and the victim's parents when the district discovers that bullying is taking place, to ensure an awareness of the problem and to provide an opportunity for parents to take steps to address the bullying and protect the victim.

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

C.S.H.B. 1323 amends the Education Code to include students who have engaged in bullying in addition to students who are victims of bullying in provisions concerning the transfer of such students. The bill expands the definition of "bullying" by including written or verbal expression through electronic means; specifying that the term includes any of the described forms of behavior, whether it occurs on or off school property; and adding as an alternative criterion a determination by a school district board of trustees or the board's designee that the conduct or expression substantially disrupts the orderly operation of a school.

C.S.H.B. 1323 authorizes a school district board of trustees or the board's designee, on the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, to transfer the student who engaged in bullying to another classroom at the campus to which the victim was assigned at the time of the bullying or to a campus in the district other than the campus to which the victim was assigned at the time of the bullying. The bill requires the board of trustees and each district educator with knowledge of a transfer request for a victim of bullying or for a student who engaged in bullying, to the extent practicable, to keep the request confidential. The bill requires the board of trustees or the board's designee to verify that a student has engaged in bullying before executing a transfer of such a student.

C.S.H.B. 1323 defines "bullying" as it relates to the student code of conduct by reference to the provisions above.

C.S.H.B. 1323 includes a bullying policy in provisions concerning discipline management programs and sexual harassment policies. The bill requires, rather than authorizes, each school district to develop and implement a bullying and sexual harassment prevention policy to be included in the required district improvement plan and requires the policy to provide for the instruction of students regarding the elements of bullying and sexual harassment; the action students should take in case of bullying or sexual harassment, including reporting an incident; and the notification of the parents or guardians of each student involved in an incident of bullying or sexual harassment.

C.S.H.B. 1323 requires the inclusion in the annual report required of each school district's board of trustees of a statement of the number, rate, and type of incidents of bullying, harassment, sexual harassment, discrimination, and violent or criminal incidents against any student on the basis of the actual or perceived race, ethnicity, color, religion, gender, gender identity or expression, sexual orientation, national origin, or disability of the alleged perpetrator or victim that occurred on each district campus, to the extent permitted under the federal Family Educational Rights and Privacy Act of 1974, and information concerning bullying, harassment, and sexual harassment prevention and intervention policies and procedures the district is using to protect students.

C.S.H.B. 1323 makes its provisions applicable beginning with the 2009-2010 school year.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1323 differs from the original by including expression through electronic means within the written or verbal expressions that fall within the definition of "bullying," whereas the original adds expression through electronic means as a separate behavior, apart from physical conduct and written or verbal expression.

C.S.H.B. 1323 differs from the original by adding as an alternative criterion in determining whether certain behavior constitutes bullying a determination that the conduct or expression substantially disrupts the orderly operation of a school, rather than adding that the conduct or expression is communicated in a manner likely to cause a disruption to the educational environment of a campus, as in the original.

C.S.H.B. 1323 adds a provision not in the original to require the board of trustees and each district educator with knowledge of a transfer request for a victim of bullying or for a student who engaged in bullying, to the extent practicable, to keep the request confidential.

C.S.H.B. 1323 adds as elements to be included in a school district's bullying and sexual harassment prevention policy the instruction of students regarding the elements of bullying and sexual harassment and the action students should take in case of bullying or sexual harassment, including reporting an incident, which are not included in the original. The substitute removes language in the original limiting the incidents addressed by provisions of the bill to those that occur in school, on school grounds, or in a school vehicle.

C.S.H.B. 1323 differs from the original by restructuring certain provisions on the content of a school district's annual report to require it to include a statement of the number, rate, and type of

incidents of bullying, harassment, sexual harassment, discrimination, and violent or criminal incidents against any student on the basis of the actual or perceived race, ethnicity, color, religion, gender, gender identity or expression, sexual orientation, national origin, or disability of the alleged perpetrator or victim that occurred on each district campus, to the extent permitted under the federal Family Educational Rights and Privacy Act of 1974.