

## **BILL ANALYSIS**

C.S.H.B. 1386  
By: Coleman  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that suicide is a leading cause of death in adolescents. Those parties further contend that pressures to succeed academically and socially are magnified when youth are subjected to harassment, discrimination, intimidation, and violence based on perceived or actual individual characteristics, behavior, or beliefs. Such victimization can lead to depression and anxiety as well as low self-esteem. Tragic consequences, including suicide, can occur when mental health issues are left unaddressed. Establishing policies designed to help recognize the signs of emotional trauma and suicidal behavior, taking steps to mitigate that trauma, and providing mental health services can help prevent suicide.

C.S.H.B. 1386 intends to direct the Department of State Health Services, in coordination with the Texas Education Agency, to develop and annually update a list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in the general education setting of public schools.

### **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. 1386 amends the Health and Safety Code to require the Department of State Health Services (DSHS), in coordination with the Texas Education Agency (TEA), to provide and annually update a list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in public elementary, junior high, middle, and high schools within the general education setting. The bill authorizes each school district to select from the list a program or programs appropriate for implementation in the district. The bill requires the programs on the list to include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to recognize students at risk of committing suicide, including students who are or who may be the victims of or who engage in bullying; to recognize students displaying early warning signs and a necessity for early mental health intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and to intervene effectively with such students by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health services, may be taken by a parent or guardian.

C.S.H.B. 1386 requires DSHS and the TEA, in developing the list of programs, to consider any existing suicide prevention method developed by a school district under the school district's improvement plan or under a school counselor's comprehensive developmental guidance program and any Internet or online course or program developed in Texas or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services

Administration or the Suicide Prevention Resource Center.

C.S.H.B. 1386 authorizes the board of trustees of each school district to adopt a policy, including any necessary procedures, concerning early mental health intervention and suicide prevention that establishes a procedure for providing notice of a necessity for early mental health intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification; establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification; establishes the actions to take to obtain assistance, intervention, and notice to a parent or guardian in response to the necessity for intervention; and sets out the available optional counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health intervention or suicide prevention. The bill requires the policy and any necessary procedures to be included in the annual student handbook and in the school district's improvement plan.

C.S.H.B. 1386 authorizes DSHS to solicit and accept a gift, grant, or donation from any source for purposes of the bill's provisions relating to the early mental health intervention and suicide prevention programs and policies. The bill adds a temporary provision, set to expire September 1, 2013, requiring DSHS, not later than January 1, 2013, to submit a report to the legislature relating to the development of the list of programs and the implementation in school districts of selected programs. The bill specifies that nothing in its provisions relating to the development of early mental health intervention and suicide prevention programs and policies is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child and that such policies and procedures are intended to notify a parent or guardian of a need for mental health intervention so that a parent or guardian may take appropriate action. The bill prohibits its provisions from being construed as giving school districts the authority to prescribe medications and specifies that any and all medical decisions are to be made by a parent or guardian of a student.

C.S.H.B. 1386 amends the Education Code to authorize the staff development provided by a school district to include training in preventing, identifying, responding to, and reporting incidents of bullying. The bill requires the State Board of Education (SBOE), in consultation with the Texas School Safety Center and in addition to any other essential knowledge and skills the SBOE adopts for the health curriculum offered by each school district, to adopt essential knowledge and skills for the health curriculum that include evidence-based practices that will effectively address awareness, prevention, and identification of bullying and harassment and intervention in and resolution of bullying and harassment. The bill removes the requirement for a school district's discipline management program to provide for prevention of and education concerning forms of bullying other than unwanted physical or verbal aggression or sexual harassment.

C.S.H.B. 1386 requires the board of trustees of each school district to adopt a policy, including any necessary procedures, concerning bullying that prohibits the bullying of a student; prohibits retaliation against any person, including a victim, witness, or another person, who in good faith provides information concerning an incident of bullying; establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim of the incident and a parent or guardian of the person engaging in bullying within a reasonable amount of time after the incident; establishes the actions a student should take to obtain assistance and intervention in response to bullying; sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying; and establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred. The bill requires the bullying policy and any necessary procedures adopted by the board of trustees to be included in any student or employee school district handbook and the school district's improvement plan. The bill requires the procedure for reporting bullying established under the policy to be posted on the district's Internet website to the extent practicable.

C.S.H.B. 1386 prohibits its provisions from being construed as reducing existing state and federal rights of a student receiving special education services and requires any act of bullying committed by such a student to be addressed through the admission, review, and dismissal committee process and the student's individualized education program plan. The bill requires the student's admission, review, and dismissal committee to consider the relationship between the behavior and the disability and whether the disability contributed to the manifestation of the behavior. The bill requires any change in placement of a student receiving special education services to be considered in accordance with provisions of law relating to the placement of students with disabilities.

C.S.H.B. 1386 makes its provisions applicable beginning with the 2012-2013 school year. The bill redefines "bullying," for purposes of bullying prevention policies and procedures, to mean engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that has the effect or will have the effect of physically harming a student, damaging a 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; is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student; exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression, expression through electronic means, or physical conduct; and interferes with a student's education or substantially disrupts the operation of a school. The bill makes a conforming change to the definition of "bullying" in provisions of law relating to the transfer of a victim of bullying and provides for the meaning of "bullying" by reference to the bill's provisions. The bill provides for the definition of "harassment" by reference to the Education Code. The bill dedicates its provisions to every child who has fallen victim to severe emotional trauma and sets out legislative findings relating to children, adolescents, mental health issues, and suicide. The bill makes conforming changes.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1386 contains a provision not included in the original dedicating its provisions to every child who has fallen victim to severe emotional trauma. The substitute differs from the original, in the bill provision establishing legislative findings, by omitting findings included in the original relating to the impediment bullying and harassment creates to academic progress and overall mental health of youth, the risk of youth who are perceived to have a certain sexual orientation to behaviors that put their physical and mental health at risk, and affect of unaddressed bullying and harassment, and by including findings not included in the original relating to the affect of unaddressed emotional trauma and mental health issues, the statistics of children and adolescents who experience significant mental health problems, the developmental processes experienced by children in elementary school and by adolescents, the pressures facing adolescents, and the importance of keeping children and adolescents mentally healthy.

C.S.H.B. 1386 differs from the original by requiring the Department of State Health Services (DSHS), in conjunction with the Texas Education Agency (TEA), to provide and annually update a list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in public elementary, junior high, middle, and high schools within the general education setting and authorizing each school district to select from the list an appropriate program or programs for implementation in the district, whereas the original requires DSHS, in coordination with the TEA, to develop a comprehensive suicide prevention program for implementation in public junior, middle, and high schools.

C.S.H.B. 1386 differs from the original, in the bill provision requiring such a program to include components providing for the recognition of students who are at risk of committing suicide, by including students who are or may be the victims of or who engage in bullying among the potential at-risk students, whereas the original includes students who are or may be the victims of discrimination or harassment or bullying. The substitute differs from the original by requiring the program to include components providing for the recognition of students displaying early warning signs and a necessity for early mental health intervention, whereas the original contains no such requirement.

C.S.H.B. 1386 differs from the original by requiring the programs to include components that provide for intervention with such at-risk students by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health services, may be taken by a parent or guardian, whereas the original requires the program to include components that provide for such intervention by providing all appropriate assistance, including referrals for mental health services.

C.S.H.B. 1386 differs from the original by requiring DSHS and the TEA, in developing the suicide intervention program, to consider certain existing suicide prevention methods developed by a school district, whereas the original authorizes the agencies to consider such methods in the development of the list of programs. The substitute differs from the original by requiring DSHS and the TEA to consider certain Internet or online courses or programs in developing the list of programs, whereas the original contains no such requirement.

C.S.H.B. 1386 contains a provision not included in the original authorizing the board of trustees of each school district to adopt a policy, including any necessary procedures, concerning mental health intervention and suicide prevention that satisfies certain specified criteria and requiring the policy and any necessary procedures to be included in the annual student handbook and the district improvement plan.

C.S.H.B. 1386 contains a provision not included in the original specifying that nothing in its provisions relating to the development of early mental health intervention and suicide prevention programs and policies is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child and that such policies and procedures are intended to notify a parent or guardian of a need for mental health intervention so that a parent or guardian may take appropriate action. The substitute contains a provision not included in the original prohibiting its provisions from being construed as giving school districts the authority to prescribe medications and specifying that any and all medical decisions are to be made by a parent or guardian of a student.

C.S.H.B. 1386 omits provisions included in the original prohibiting certain discrimination or harassment by a school district or employee of a school district that is based on actual or perceived ethnicity, color, gender, gender identity or expression, sexual orientation, disability, religion, or national origin and establishing the conduct to which such a prohibition applies. The substitute omits provisions included in the original defining "gender identity or expression" and "sexual orientation." The substitute omits a provision included in the original requiring a school district to provide periodic training to district employees regarding prevention and responding to reports of such discrimination and harassment. The substitute omits provisions included in the original requiring each school district, in accordance with commissioner of education rules, to report annually to the TEA information regarding each incident of alleged discrimination or harassment that occurred at each campus in the district during the preceding year and requiring the TEA to include the information in its comprehensive annual report.

C.S.H.B. 1386 contains a provision not included in the original authorizing the staff development provided by a school district to include training in preventing, identifying, responding to, and reporting incidents of bullying.

C.S.H.B. 1386 omits a provision included in the original authorizing the board of trustees of a school district or the board's designee, on 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 certain other classrooms or campuses and requiring the board of trustees and each district educator with knowledge of the transfer request to keep the request confidential to the extent practicable.

C.S.H.B. 1386 contains a provision not included in the original requiring the State Board of Education, in consultation with the Texas School Safety Center, to adopt essential knowledge and skills for the school health curriculum that include evidence-based practices that will effectively address awareness, prevention, and identification of bullying and harassment and intervention in and resolution of bullying and harassment.

C.S.H.B. 1386 contains a provision not included in the original removing the requirement for a school district's discipline management program to provide for prevention of and education concerning forms of bullying other than unwanted physical or verbal aggression or sexual harassment.

C.S.H.B. 1386 differs from the original by including expression through electronic means in the definition of "bullying," whereas the original includes cyberbullying in the definition of that term and defines "cyberbullying." The substitute differs from the original, in the bill provision defining "bullying," by limiting conduct or expression that constitutes bullying to conduct or expression that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the school district, whereas the original contains no such limitation. The substitute differs from the original by omitting a specification included in the original including an action motivated by the perceived or actual characteristics, behavior, or beliefs of a student in the conduct that constitutes bullying.

C.S.H.B. 1386 differs from the original, in the bill provision specifying in the definition of "bullying" that an expression or conduct constituting bullying will have the effect of physically harming a student, damaging a 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, by adding as an alternative the condition that the expression or conduct has such an effect. The bill differs from the original by specifying that the expression or conduct is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student, whereas the original specifies that the expression or conduct is sufficiently severe, persistent, or pervasive enough that the action or threat creates such an environment. The bill differs from the original by adding the condition that the expression or conduct exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression, expression through electronic means, or physical conduct, whereas the original contains no such condition.

C.S.H.B. 1386 differs from the original, in the bill provision requiring the board of trustees of each school district to adopt a policy concerning bullying, by specifying that the policy includes any necessary procedures concerning bullying, whereas the original contains no such specification. The substitute differs from the original by requiring the policy, in addition to prohibiting bullying and prohibiting certain retaliation, to establish a procedure for providing notice of an incident of bullying to a parent or guardian of the victim of the incident and a parent or guardian of the person engaging in bullying; establish the actions a student should take to obtain assistance and intervention in response to bullying; set out certain available counseling options; and establish procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred, whereas the original requires the policy to address any other issue concerning bullying that the board of trustees determines to be appropriate.

C.S.H.B. 1386 differs from the original by requiring the bullying policy and necessary procedures to be included in any student or employee school district handbook and the district improvement plan and requiring the policy to be posted on the district's Internet website to the extent practicable, whereas the original requires each school district to provide annual written notice of the policy to each district student, the parent or guardian of each district student, and each district employee or volunteer; post the policy on district and campus Internet websites; and include the policy in student and employee handbooks.

C.S.H.B. 1386 omits provisions included in the original requiring each school district to report annually to the TEA information regarding each incidence of alleged bullying that occurred at each campus in the district during the preceding year and requiring the TEA to include the information in the agency's comprehensive annual report.

C.S.H.B. 1386 contains a provision not included in the original prohibiting its provisions from being construed as reducing existing state and federal rights of students receiving special education services and establishing procedures for addressing an act of bullying committed by a student receiving special education services.

C.S.H.B. 1386 differs from the original by making the bill's provisions applicable beginning with the 2012-2013 school year, rather than 2011-2012 school year as in the original. The substitute differs from the original in conforming and nonsubstantive ways.