

BILL ANALYSIS

Senate Research Center

S.B. 471
By: West et al.
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1041, 81st Legislature, Regular Session, 2009, required each school district to adopt and implement a sexual abuse policy. However, the policies do not have to address other forms of abuse or the prevention of child maltreatment. Currently, Section 38.004 (Child Abuse Reporting and Programs), Education Code, requires the Texas Education Agency to develop, periodically update, and make available materials on child abuse prevention training, but it does not require school districts to use the materials. Given that schools are the largest referral source of child abuse and neglect confirmed investigations, it is critical that their professional employees be trained in child maltreatment prevention.

Additionally, child-care facilities are not required to adopt or implement an internal child abuse prevention policy. Training regarding child abuse prevention may be part of the annually required training for child-care facility staff, but the nature and amount of such training is completely at the discretion of the trainer, and varies widely around the state.

S.B. 471 amends current law relating to public school, child-placing agency, and day-care center policies addressing sexual abuse and other maltreatment of children.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Family and Protective Services in SECTION 4 (Section 42.04261, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.252(a), Education Code, to require that each school district's district improvement plan include provisions for certain elements, including provisions for the policy under Section 38.0041 addressing sexual abuse and other maltreatment of children.

SECTION 2. Amends Section 38.0041, Education Code, as follows:

Sec. 38.0041. New heading: POLICIES ADDRESSING SEXUAL ABUSE AND OTHER MALTREATMENT OF CHILDREN. (a) Requires each school district and open-enrollment charter school to adopt and implement a policy addressing sexual abuse and other maltreatment of children, to be included in the district improvement plan under Section 11.252 (District-Level Planning and Decision-Making) and any informational handbook provided to students and parents.

(b) Requires that a policy required by this section address:

(1) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment, using resources developed by the agency under Section 38.004 (Child Abuse Reporting and Programs);

(2) actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention; and

(3) available counseling options for students affected by sexual abuse or other maltreatment.

(c) Requires that the methods under Subsection (b)(1) for increasing awareness of issues regarding sexual abuse and other maltreatment of children include training, as provided by this subsection, concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children. Provides that the training:

(1) must be provided, as part of a new employee orientation, to new school district and open-enrollment charter school educators, including counselors and coaches, and other district and charter school professional staff members;

(2) may be provided annually to any district or charter school staff member; and

(3) must include training concerning:

(A) factors indicating a child is at-risk for sexual abuse or other maltreatment;

(B) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;

(C) internal procedures for seeking assistance for a child who is at-risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

(D) techniques for reducing a child's risk of sexual abuse or other maltreatment; and

(E) community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

(d) Requires each school district and open-enrollment charter school, for any training under Subsection (c), to maintain records that include the name of each district or charter school staff member who participated in the training.

(e) Requires a school district or open-enrollment charter school, if the district or charter school determines that the district or charter school does not have sufficient resources to provide the training required under Subsection (c), to work in conjunction with a community organization to provide the training at no cost to the district or charter school.

(f) Authorizes the training under Subsection (c) to be included in staff development under Section 21.451 (Staff Development Requirements).

(g) Prohibits a school district or open-enrollment charter school employee from being subject to any disciplinary proceeding, as defined by Section 22.0512(b) (defining disciplinary proceeding) resulting from an action taken in compliance with this section. Provides that the requirements of this section are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Section 22.0511 (Immunity

from Liability). Prohibits anything in this section from being considered to limit the immunity from liability provided under Section 22.0511.

(h) Defines "other maltreatment" for purposes of this section.

SECTION 3. Amends Section 42.002, Human Resources Code, by adding Subdivision (23), to define "other maltreatment."

SECTION 4. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.04261, as follows:

Sec. 42.04261. OTHER TRAINING OF PERSONNEL: CHILD-PLACING AGENCIES AND DAY-CARE CENTERS. (a) Requires a child-placing agency or day-care center, notwithstanding Section 42.0426(a)(1) (relating to requiring a licensed facility to provide training for staff members in the recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure of reporting suspected occurrences of child abuse, neglect, and sexual molestation to the Department of Family and Protective Services (DFPS) or other appropriate entity), to provide training for staff members in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment of children to DFPS or other appropriate entity.

(b) Requires that the type of training required under Subsection (a) be determined by DFPS rule. Requires that the training be provided for at least an hour annually and include training concerning:

(1) factors indicating a child is at risk for sexual abuse or other maltreatment;

(2) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;

(3) internal procedures for reporting sexual abuse or other maltreatment; and

(4) community organizations that have existing training programs that are able to provide training or other education for child-placing agency or day-care center staff members, children, and parents.

(c) Authorizes a child-placing agency or day-care center, if the agency or center determines that it does not have sufficient resources to provide the training required under this section, to contact a DFPS licensing employee to obtain information concerning community organizations that will provide such training at no cost to the agency or center.

SECTION 5. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0428, as follows:

Sec. 42.0428. POLICIES ADDRESSING SEXUAL ABUSE AND OTHER MALTREATMENT OF CHILDREN. (a) Requires each child-placing agency or day-care center to adopt and implement a policy addressing sexual abuse and other maltreatment of children.

(b) Requires that a policy required by this section address:

(1) methods for increasing child-placing agency or day-care center staff and parent awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children, including knowledge of

likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment; and

(2) actions that, after contacting an agency or center, the parent of a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention.

(c) Requires that the methods under Subsection (b)(1) for increasing awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children include:

(1) the training required under Section 42.04261; and

(2) strategies for coordination between the child-placing agency or day-care center and appropriate community organizations.

SECTION 6. Provides that Section 11.252(a), Education Code, as amended by this Act, applies beginning with the 2011-2012 school year.

SECTION 7. Effective date: upon passage or September 1, 2011.