

By: Menendez

H.B. No. 1059

A BILL TO BE ENTITLED

AN ACT

relating to bullying, including cyberbullying, in public schools.

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

SECTION 1. Section 25.0342, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) In this section:

(1) "Bullying":

(A) [~~,"bullying"~~] means a single significant act or a pattern of acts by one student directed at another student that involves engaging in written or verbal expression or physical conduct, that satisfies the applicability requirements provided by Subsection (a-1), and that a school district board of trustees or the board's designee determines:

(i) [~~(1)~~] will have the effect of physically or emotionally 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; [~~or~~]

(ii) [~~(2)~~] is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;

(iii) materially and substantially disrupts the education process or the orderly operation of a

1 school; or

2 (iv) infringes on the rights of the victim
3 at school; and

4 (B) includes cyberbullying.

5 (2) "Cyberbullying" means bullying that is done
6 through the use of electronic communication, including through the
7 use of a cellular or other type of telephone, a computer, a pager, a
8 camera, electronic mail, instant messaging, text messaging, or an
9 Internet website.

10 (a-1) This section applies to:

11 (1) bullying that occurs on or is delivered to school
12 property or to the site of a school-sponsored or school-related
13 activity on or off school property;

14 (2) bullying that occurs on a publicly or privately
15 owned school bus or van being used for transportation of students to
16 or from school or a school-sponsored or school-related activity;
17 and

18 (3) cyberbullying that occurs off school property or
19 outside of a school-sponsored or school-related activity if the
20 cyberbullying:

21 (A) interferes with a student's educational
22 opportunities; or

23 (B) substantially disrupts the orderly operation
24 of a school or school-sponsored or school-related activity.

25 SECTION 2. Sections 37.001(a) and (b), Education Code, are
26 amended to read as follows:

27 (a) The board of trustees of an independent school district

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

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

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

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

17 (4) specify that consideration will be given, as a
18 factor in each decision concerning suspension, removal to a
19 disciplinary alternative education program, expulsion, or
20 placement in a juvenile justice alternative education program,
21 regardless of whether the decision concerns a mandatory or
22 discretionary action, to:

23 (A) self-defense;

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

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

27 (D) a disability that substantially impairs the

1 student's capacity to appreciate the wrongfulness of the student's
2 conduct;

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

5 (A) a removal under Section 37.006; and

6 (B) an expulsion under Section 37.007;

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

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

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

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

18 (B) disciplining students; and

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

22 (9) include a procedure for reporting an act of
23 bullying, harassment, or intimidation that includes allowing a
24 person to anonymously report such an act; and

25 (10) include a procedure for prompt investigation of a
26 reported act of bullying, harassment, or intimidation.

27 (b) In this section:

1 (1) "Bullying" has the meaning assigned by Section
2 25.0342.

3 (2) "Harassment" means threatening to cause harm or
4 bodily injury to another student, engaging in sexually intimidating
5 conduct, causing physical damage to the property of another
6 student, subjecting another student to physical confinement or
7 restraint, or maliciously taking any action that substantially
8 harms another student's physical or emotional health or safety.

9 (3) [~~(2)~~] "Hit list" means a list of people targeted
10 to be harmed, using:

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

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

15 (C) any other object to be used with intent to
16 cause bodily harm.

17 SECTION 3. Section 37.083, Education Code, is amended to
18 read as follows:

19 Sec. 37.083. DISCIPLINE MANAGEMENT PROGRAMS; SEXUAL
20 HARASSMENT POLICIES. (a) Each school district shall adopt and
21 implement a discipline management program to be included in the
22 district improvement plan under Section 11.252. The program must
23 provide for prevention of and education concerning unwanted
24 physical or verbal aggression, sexual harassment, and other forms
25 of bullying [~~in school, on school grounds, and in school vehicles~~].

26 (b) Each school district and open-enrollment charter school
27 shall, in consultation with any district- and campus-level

1 committees established under Section 11.251, [may] develop and
2 implement a written policy concerning sexual harassment and other
3 forms of bullying [policy] to be included, as applicable, in the
4 district improvement plan under Section 11.252. The policy must:

5 (1) include the definitions of bullying and
6 cyberbullying assigned by Section 25.0342, including the
7 applicability information provided by Section 25.0342(a-1);

8 (2) establish a procedure for providing notice of an
9 act of sexual harassment or another form of bullying to a parent or
10 guardian of the victim and the parent or guardian of the perpetrator
11 within 48 hours of the time the act is reported; and

12 (3) include a procedure for investigating a reported
13 act of sexual harassment or another form of bullying and for
14 responding to and remediating any such substantiated act.

15 (c) Each school district and open-enrollment charter school
16 shall, to the greatest extent practicable, integrate the policy
17 required by Subsection (b) into the curriculum, the student code of
18 conduct, staff and volunteer training, and behavioral and violence
19 prevention programs of the district or charter school.

20 SECTION 4. This Act applies beginning with the 2011-2012
21 school year.

22 SECTION 5. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2011.