

By: Coleman, Farrar, Marquez, et al.

H.B. No. 1386

Substitute the following for H.B. No. 1386:

By: Naishtat

C.S.H.B. No. 1386

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the public health threat presented by youth suicide and  
3 to the prevention of associated discrimination, harassment, and  
4 bullying.

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

6 SECTION 1. This Act is dedicated to every child who has  
7 fallen victim to severe emotional trauma.

8 SECTION 2. The legislature finds that:

9 (1) the United States Surgeon General's Report on  
10 Children's Mental Health estimates that one in five children and  
11 adolescents will experience a significant mental health problem  
12 during their school years;

13 (2) during elementary school years, children are in an  
14 ongoing developmental process where it is crucial that healthy  
15 mental and behavioral development be promoted and that a solid  
16 foundation in social-emotional skills and capacities be built;

17 (3) adolescence is a period of significant change,  
18 during which youth are faced with a myriad of pressures;

19 (4) the pressures facing youth during adolescence  
20 include pressures relating to adapting to bodily changes,  
21 succeeding academically, making college and career decisions,  
22 being accepted by peers, including pressure to engage in drugs,  
23 alcohol, and sex, measuring up to expectations of others, and  
24 coping with family and peer conflicts;



1 the list a program or programs appropriate for implementation in  
2 the district.

3 (b) The programs on the list must include components that  
4 provide for training counselors, teachers, nurses, administrators,  
5 and other staff, as well as law enforcement officers and social  
6 workers who regularly interact with students, to:

7 (1) recognize students at risk of committing suicide,  
8 including students who are or may be the victims of or who engage in  
9 bullying prohibited in accordance with Section 37.0832, Education  
10 Code;

11 (2) recognize students displaying early warning signs  
12 and a necessity for early mental health intervention, which warning  
13 signs may include declining academic performance, depression,  
14 anxiety, isolation, unexplained changes in sleep or eating habits,  
15 and destructive behavior toward self and others; and

16 (3) intervene effectively with students described by  
17 Subdivision (1) or (2) by providing notice and referral to a parent  
18 or guardian so appropriate action, such as seeking mental health  
19 services, may be taken by a parent or guardian.

20 (c) In developing the list of programs, the department and  
21 the Texas Education Agency shall consider:

22 (1) any existing suicide prevention method developed  
23 by a school district under Section 11.252(a)(3)(B) or  
24 33.006(b)(1)(A), Education Code; and

25 (2) any Internet or online course or program developed  
26 in this state or another state that is based on best practices  
27 recognized by the Substance Abuse and Mental Health Services

1 Administration or the Suicide Prevention Resource Center.

2 (d) The board of trustees of each school district may adopt  
3 a policy, including any necessary procedures, concerning early  
4 mental health intervention and suicide prevention that:

5 (1) establishes a procedure for providing notice of a  
6 necessity for early mental health intervention regarding a student  
7 to a parent or guardian of the student within a reasonable amount of  
8 time after the identification;

9 (2) establishes a procedure for providing notice of a  
10 student identified as at risk of committing suicide to a parent or  
11 guardian of the student within a reasonable amount of time after the  
12 identification;

13 (3) establishes the actions to take to obtain  
14 assistance, intervention, and notice to a parent or guardian in  
15 response to the necessity for intervention; and

16 (4) sets out the available optional counseling  
17 alternatives for a parent or guardian to consider when their child  
18 is identified as possibly being in need of early mental health  
19 intervention or suicide prevention.

20 (e) The policy and any necessary procedures adopted under  
21 Subsection (d) must be included in:

22 (1) the annual student handbook; and

23 (2) the district improvement plan under Section  
24 11.252, Education Code.

25 (f) The department may solicit and accept a gift, grant, or  
26 donation from any source for purposes of this section.

27 (g) Not later than January 1, 2013, the department shall

1 submit a report to the legislature relating to the development of  
2 the list of programs and the implementation in school districts of  
3 selected programs. This subsection expires September 1, 2013.

4 (h) Nothing in this section is intended to interfere with  
5 the rights of parents or guardians and the decision-making  
6 regarding the best interest of the child. Policy and procedures  
7 adopted in accordance with this section are intended to notify a  
8 parent or guardian of a need for mental health intervention so that  
9 a parent or guardian may take appropriate action. Nothing in this  
10 Act shall be construed as giving school districts the authority to  
11 prescribe medications; any and all medical decisions are to be made  
12 by a parent or guardian of a student.

13 SECTION 4. Section 11.252(a), Education Code, is amended to  
14 read as follows:

15 (a) Each school district shall have a district improvement  
16 plan that is developed, evaluated, and revised annually, in  
17 accordance with district policy, by the superintendent with the  
18 assistance of the district-level committee established under  
19 Section 11.251. The purpose of the district improvement plan is to  
20 guide district and campus staff in the improvement of student  
21 performance for all student groups in order to attain state  
22 standards in respect to the student achievement indicators adopted  
23 under Section 39.053. The district improvement plan must include  
24 provisions for:

25 (1) a comprehensive needs assessment addressing  
26 district student performance on the student achievement  
27 indicators, and other appropriate measures of performance, that are

1 disaggregated by all student groups served by the district,  
2 including categories of ethnicity, socioeconomic status, sex, and  
3 populations served by special programs, including students in  
4 special education programs under Subchapter A, Chapter 29;

5 (2) measurable district performance objectives for  
6 all appropriate student achievement indicators for all student  
7 populations, including students in special education programs  
8 under Subchapter A, Chapter 29, and other measures of student  
9 performance that may be identified through the comprehensive needs  
10 assessment;

11 (3) strategies for improvement of student performance  
12 that include:

13 (A) instructional methods for addressing the  
14 needs of student groups not achieving their full potential;

15 (B) methods for addressing the needs of students  
16 for special programs, including:

17 (i) ~~[such as]~~ suicide prevention programs,  
18 in accordance with Subchapter O-1, Chapter 161, Health and Safety  
19 Code, which includes a parental or guardian notification procedure;

20 (ii) ~~[ ]~~ conflict resolution programs;

21 (iii) ~~[ ]~~ violence prevention programs; and

22 (iv) ~~[ ]~~ dyslexia treatment programs;

23 (C) dropout reduction;

24 (D) integration of technology in instructional  
25 and administrative programs;

26 (E) discipline management;

27 (F) staff development for professional staff of

1 the district;

2 (G) career education to assist students in  
3 developing the knowledge, skills, and competencies necessary for a  
4 broad range of career opportunities; and

5 (H) accelerated education;

6 (4) strategies for providing to middle school, junior  
7 high school, and high school students, those students' teachers and  
8 counselors, and those students' parents information about:

9 (A) higher education admissions and financial  
10 aid opportunities;

11 (B) the TEXAS grant program and the Teach for  
12 Texas grant program established under Chapter 56;

13 (C) the need for students to make informed  
14 curriculum choices to be prepared for success beyond high school;  
15 and

16 (D) sources of information on higher education  
17 admissions and financial aid;

18 (5) resources needed to implement identified  
19 strategies;

20 (6) staff responsible for ensuring the accomplishment  
21 of each strategy;

22 (7) timelines for ongoing monitoring of the  
23 implementation of each improvement strategy; and

24 (8) formative evaluation criteria for determining  
25 periodically whether strategies are resulting in intended  
26 improvement of student performance.

27 SECTION 5. Section 21.451(d), Education Code, is amended to

1 read as follows:

2 (d) The staff development:

3 (1) may include training in:

4 (A) technology;

5 (B) conflict resolution; ~~and~~

6 (C) discipline strategies, including classroom  
7 management, district discipline policies, and the student code of  
8 conduct adopted under Section 37.001 and Chapter 37; and

9 (D) preventing, identifying, responding to, and  
10 reporting incidents of bullying; and

11 (2) subject to Subsection (e), must include training  
12 based on scientifically based research, as defined by Section 9101,  
13 No Child Left Behind Act of 2001 (20 U.S.C. Section 7801), that:

14 (A) relates to instruction of students with  
15 disabilities; and

16 (B) is designed for educators who work primarily  
17 outside the area of special education.

18 SECTION 6. Section 25.0342(a), Education Code, is amended  
19 to read as follows:

20 (a) In this section, "bullying" has the meaning assigned by  
21 Section 37.0832 ~~[means engaging in written or verbal expression or~~  
22 ~~physical conduct that a school district board of trustees or the~~  
23 ~~board's designee determines:~~

24 ~~[(1) will have the effect of physically harming a~~  
25 ~~student, damaging a student's property, or placing a student in~~  
26 ~~reasonable fear of harm to the student's person or of damage to the~~  
27 ~~student's property; or~~



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

4           SECTION 7. Section 28.002, Education Code, is amended by  
5 adding Subsection (s) to read as follows:

6           (s) In addition to any other essential knowledge and skills  
7 the State Board of Education adopts for the health curriculum under  
8 Subsection (a)(2)(B), the board, in consultation with the Texas  
9 School Safety Center, shall adopt essential knowledge and skills  
10 for the health curriculum that include evidence-based practices  
11 that will effectively address awareness, prevention, and  
12 identification of bullying and harassment and intervention in and  
13 resolution of bullying and harassment. In this subsection:

14                   (1) "Bullying" has the meaning assigned by Section  
15 37.0832.

16                   (2) "Harassment" has the meaning assigned by Section  
17 37.001.

18           SECTION 8. Section 37.001(b), Education Code, is amended to  
19 read as follows:

20           (b) In this section:

21                   (1) "Bullying" has the meaning assigned by Section  
22 37.0832.

23                   (2) "Harassment" means threatening to cause harm or  
24 bodily injury to another student, engaging in sexually intimidating  
25 conduct, causing physical damage to the property of another  
26 student, subjecting another student to physical confinement or  
27 restraint, or maliciously taking any action that substantially

1 harms another student's physical or emotional health or safety.

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

4 (A) a firearm, as defined by Section 46.01(3),  
5 Penal Code;

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

8 (C) any other object to be used with intent to  
9 cause bodily harm.

10 SECTION 9. Section 37.083(a), Education Code, is amended to  
11 read as follows:

12 (a) Each school district shall adopt and implement a  
13 discipline management program to be included in the district  
14 improvement plan under Section 11.252. The program must provide  
15 for prevention of and education concerning unwanted physical or  
16 verbal aggression and [~~7~~] sexual harassment [~~7~~, ~~and other forms of~~  
17 ~~bullying~~] in school, on school grounds, and in school vehicles.

18 SECTION 10. Subchapter C, Chapter 37, Education Code, is  
19 amended by adding Section 37.0832 to read as follows:

20 Sec. 37.0832. BULLYING PREVENTION POLICIES AND PROCEDURES.

21 (a) In this section, "bullying" means engaging in written or verbal  
22 expression, expression through electronic means, or physical  
23 conduct that occurs on school property, at a school-sponsored or  
24 school-related activity, or in a vehicle operated by the district  
25 and that:

26 (1) has the effect or will have the effect of  
27 physically harming a student, damaging a student's property, or

1 placing a student in reasonable fear of harm to the student's person  
2 or of damage to the student's property;

3 (2) is sufficiently severe, persistent, and pervasive  
4 enough that the action or threat creates an intimidating,  
5 threatening, or abusive educational environment for a student;

6 (3) exploits an imbalance of power between the student  
7 perpetrator and the student victim through written or verbal  
8 expression, expression through electronic means, or physical  
9 conduct; and

10 (4) interferes with a student's education or  
11 substantially disrupts the operation of a school.

12 (b) The board of trustees of each school district shall  
13 adopt a policy, including any necessary procedures, concerning  
14 bullying that:

15 (1) prohibits the bullying of a student;

16 (2) prohibits retaliation against any person,  
17 including a victim, a witness, or another person, who in good faith  
18 provides information concerning an incident of bullying;

19 (3) establishes a procedure for providing notice of an  
20 incident of bullying to a parent or guardian of the victim of the  
21 incident and a parent or guardian of the person engaging in bullying  
22 within a reasonable amount of time after the incident;

23 (4) establishes the actions a student should take to  
24 obtain assistance and intervention in response to bullying;

25 (5) sets out the available counseling options for a  
26 student who is a victim of or a witness to bullying or who engages in  
27 bullying; and

1           (6) establishes procedures for reporting an incident  
2 of bullying, investigating a reported incident of bullying, and  
3 determining whether the reported incident of bullying occurred.

4           (c) The policy and any necessary procedures adopted under  
5 Subsection (b) must be included in:

6           (1) any student or employee school district handbook;  
7 and

8           (2) the district improvement plan under Section  
9 11.252.

10          (d) The procedure for reporting bullying established under  
11 Subsection (b) must be posted on the district's Internet website to  
12 the extent practicable.

13          (e) This section and any other change in law made by H.B.  
14 1386, Acts of the 82nd Legislature, Regular Session, 2011, may not  
15 be construed as reducing existing state and federal rights of  
16 students receiving special education services under Subchapter A,  
17 Chapter 29. Any act of bullying committed by a student receiving  
18 special education services must be addressed through the admission,  
19 review, and dismissal committee process and the student's  
20 individualized education program plan. The student's admission,  
21 review, and dismissal committee must consider the relationship  
22 between the behavior and the disability and whether the disability  
23 contributed to the manifestation of the behavior. Any change in  
24 placement of a student receiving special education services must be  
25 considered in accordance with Section 37.004.

26          SECTION 11. This Act applies beginning with the 2012-2013  
27 school year.

1           SECTION 12. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2011.