

By: Coleman

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,
4 bullying, and cyberbullying.

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

6 SECTION 1. The legislature finds that:

7 (1) suicide committed by youth continues to present a
8 public health threat that endangers the well-being of the youth of
9 the state;

10 (2) suicide is the third leading cause of death for
11 persons who are at least 15 years of age but younger than 25 years of
12 age and the sixth leading cause of death for persons who are at
13 least 5 years of age but younger than 15 years of age;

14 (3) youth feel the pressures of succeeding
15 academically and socially, as well as the pressure of being
16 accepted by peers;

17 (4) research shows that bullying and harassment are
18 serious problems that impede the academic progress and overall
19 mental health of youth;

20 (5) youth who have or are perceived to have a certain
21 sexual orientation are subject to pervasive discrimination,
22 bullying, harassment, intimidation, and violence that puts their
23 physical and mental health at risk;

24 (6) increased levels of victimization, as described by

1 Subdivision (5), also lead to increased levels of depression and
2 anxiety and decreased levels of self-esteem; and

3 (7) bullying and harassment, if left unaddressed, can
4 lead and have led to life-threatening violence and suicide.

5 SECTION 2. Chapter 161, Health and Safety Code, is amended
6 by adding Subchapter O-1 to read as follows:

7 SUBCHAPTER O-1. PREVENTION OF YOUTH SUICIDE

8 Sec. 161.325. SUICIDE PREVENTION. (a) The department, in
9 coordination with the Texas Education Agency, shall develop a
10 comprehensive suicide prevention program for implementation in
11 public junior, middle, and high schools.

12 (b) The program must include components that provide for
13 training counselors, teachers, nurses, administrators, and other
14 staff, as well as law enforcement officers and social workers who
15 regularly interact with students, to:

16 (1) recognize students at risk of committing suicide,
17 including students who are or may be the victims of discrimination
18 or harassment prohibited by Section 11.174, Education Code, or
19 bullying prohibited in accordance with Section 37.0832, Education
20 Code; and

21 (2) intervene effectively with those students by
22 providing all appropriate assistance, including referrals for
23 mental health services.

24 (c) In developing the program, the department and the Texas
25 Education Agency may consider any existing suicide prevention
26 method developed by a school district under Section 11.252(a)(3)(B)
27 or 33.006(b)(1)(A), Education Code.

1 (d) The department may solicit and accept a gift, grant, or
2 donation from any source for the development and implementation of
3 the program required by this section.

4 (e) Not later than January 1, 2013, the department shall
5 submit a report to the legislature relating to the development and
6 implementation of the program required by this section. This
7 subsection expires September 1, 2013.

8 SECTION 3. Subchapter D, Chapter 11, Education Code, is
9 amended by adding Section 11.174 to read as follows:

10 Sec. 11.174. DISCRIMINATION, HARASSMENT, AND RETALIATION
11 PROHIBITED. (a) In this section:

12 (1) "Gender identity or expression" means a person's
13 having, or being perceived as having, a gender-related identity,
14 appearance, expression, or behavior, whether or not that identity,
15 appearance, expression, or behavior is different from that commonly
16 associated with the person's assigned sex at birth.

17 (2) "Sexual orientation" means heterosexuality,
18 homosexuality, or bisexuality.

19 (b) A school district or employee of a school district may
20 not:

21 (1) discriminate against or harass an employee of the
22 district or a student enrolled in the district on account of:

23 (A) the actual or perceived ethnicity, color,
24 gender, gender identity or expression, sexual orientation,
25 disability, religion, or national origin of the employee, student,
26 or student's parent; or

27 (B) one or more persons with whom the employee,

1 student, or student's parent associates; or

2 (2) retaliate against an employee of the district or a
3 student enrolled in the district for reporting potential
4 discrimination or harassment prohibited by Subdivision (1).

5 (c) This section applies to conduct that occurs:

6 (1) on school property;

7 (2) while attending a school-sponsored or
8 school-related activity on or off of school property; or

9 (3) in connection with transportation of students in a
10 vehicle owned or operated by a school district or owned or operated
11 by another entity under contract with a school district.

12 (d) A school district shall provide periodic training to
13 district employees regarding prevention of discrimination and
14 harassment prohibited by this section and procedures for responding
15 to reported or observed incidents of prohibited discrimination or
16 harassment. The training may be provided in conjunction with any
17 training provided under Section 37.083.

18 (e) In accordance with rules adopted by the commissioner,
19 each school district shall report annually to the agency
20 information regarding each incident of alleged discrimination or
21 harassment that occurred at each campus in the district during the
22 preceding year. The agency shall include the information,
23 disaggregated by campus, in the comprehensive annual report
24 required by Section 39.332.

25 SECTION 4. The heading to Section 25.0342, Education Code,
26 is amended to read as follows:

27 Sec. 25.0342. TRANSFER OF STUDENTS WHO ARE VICTIMS OF OR

1 HAVE ENGAGED IN BULLYING.

2 SECTION 5. Section 25.0342, Education Code, is amended by
3 amending Subsections (a), (c), and (e) and adding Subsections (b-1)
4 and (b-2) to read as follows:

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

9 [~~(1) will have the effect of physically harming a~~
10 ~~student, damaging a student's property, or placing a student in~~
11 ~~reasonable fear of harm to the student's person or of damage to the~~
12 ~~student's property; or~~

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

16 (b-1) On the request of a parent or other person with
17 authority to act on behalf of a student who is a victim of bullying,
18 the board of trustees of a school district or the board's designee
19 may transfer the student who engaged in bullying to:

20 (1) another classroom at the campus to which the
21 victim was assigned at the time the bullying occurred; or

22 (2) a campus in the district other than the campus to
23 which the victim was assigned at the time the bullying occurred.

24 (b-2) To the extent practicable, the board of trustees and
25 each district educator with knowledge of the request shall keep a
26 request received under Subsection (b) or (b-1) confidential.

27 (c) The board of trustees or the board's designee shall

1 verify that a student has been a victim of or has engaged in
2 bullying, as applicable, before transferring the student under this
3 section.

4 (e) A [~~The~~] determination by the board of trustees or the
5 board's designee under this section is final and may not be
6 appealed.

7 SECTION 6. Section 37.001(b), Education Code, is amended to
8 read as follows:

9 (b) In this section:

10 (1) "Bullying" has the meaning assigned by Section
11 37.0832.

12 (2) "Harassment" means threatening to cause harm or
13 bodily injury to another student, engaging in sexually intimidating
14 conduct, causing physical damage to the property of another
15 student, subjecting another student to physical confinement or
16 restraint, or maliciously taking any action that substantially
17 harms another student's physical or emotional health or safety.

18 (3) [~~(2)~~] "Hit list" means a list of people targeted
19 to be harmed, using:

20 (A) a firearm, as defined by Section 46.01(3),
21 Penal Code;

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

24 (C) any other object to be used with intent to
25 cause bodily harm.

26 SECTION 7. Subchapter C, Chapter 37, Education Code, is
27 amended by adding Section 37.0832 to read as follows:

1 Sec. 37.0832. POLICY PROHIBITING BULLYING, INCLUDING
2 CYBERBULLYING; REPORT. (a) In this section:

3 (1) "Bullying":

4 (A) means engaging in written or verbal
5 expression or physical conduct, including an action motivated by
6 the perceived or actual characteristics, behavior, or beliefs of a
7 student, that:

8 (i) will have the effect of physically
9 harming a student, damaging a student's property, or placing a
10 student in reasonable fear of harm to the student's person or of
11 damage to the student's property;

12 (ii) is sufficiently severe, persistent, or
13 pervasive enough that the action or threat creates an intimidating,
14 threatening, or abusive educational environment for a student;

15 (iii) interferes with a student's
16 educational opportunities; or

17 (iv) substantially disrupts the operation of
18 a school; and

19 (B) includes cyberbullying.

20 (2) "Cyberbullying" means bullying, harassment, or
21 intimidation that is done using electronic communication,
22 including electronic media.

23 (b) The board of trustees of each school district shall
24 adopt a policy concerning bullying that:

25 (1) prohibits bullying of a student;

26 (2) prohibits retaliation against any person,
27 including a victim, witness, or another person, who in good faith

1 provides information concerning an incident of bullying; and

2 (3) addresses any other issue concerning bullying that
3 the board of trustees determines to be appropriate.

4 (c) Each school district shall:

5 (1) provide annual written notice of the policy
6 adopted under Subsection (b) to each district student, the parent
7 or guardian of each district student, and each district employee or
8 volunteer;

9 (2) post the policy on district and campus Internet
10 websites; and

11 (3) include the policy in student and employee
12 handbooks.

13 (d) In accordance with rules adopted by the commissioner,
14 each school district shall report annually to the agency
15 information regarding each incidence of alleged bullying that
16 occurred at each campus in the district during the preceding year.
17 The agency shall include the information, disaggregated by campus,
18 in the comprehensive annual report required by Section 39.332.

19 SECTION 8. (a) Each school district shall submit to the
20 Texas Education Agency information as required under Sections
21 11.174(e) and 37.0832(d), Education Code, as added by this Act,
22 beginning with the 2012-2013 school year based on incidents of
23 discrimination, harassment, and bullying during the 2011-2012
24 school year.

25 (b) The Texas Education Agency shall include the
26 information required under Sections 11.174(e) and 37.0832(d),
27 Education Code, as added by this Act, in the comprehensive annual

1 report required by Section 39.332, Education Code, beginning with
2 the report required to be submitted not later than December 1, 2012.

3 SECTION 9. This Act applies beginning with the 2011-2012
4 school year.

5 SECTION 10. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2011.