

By: Hernandez Luna

H.B. No. 1467

A BILL TO BE ENTITLED

AN ACT

relating to bullying and cyberbullying in public schools; providing penalties.

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

SECTION 1. Section 21.451(d), Education Code, is amended to read as follows:

(d) The staff development:

(1) may include training in:

(A) technology;

(B) conflict resolution; and

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

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

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

(B) is designed for educators who work primarily outside the area of special education; and

(3) must include training to address bullying and cyberbullying, as those terms are defined by Section 25.0342, paid for with local money, including money from fines imposed under Section 26.016(b) or 37.902.

1 SECTION 2. The heading to Section 25.0342, Education Code,  
2 is amended to read as follows:

3 Sec. 25.0342. TRANSFER OF VICTIMS OF BULLYING OR  
4 CYBERBULLYING.

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

8 (a) In this section:

9 (1) "Bullying" [~~,"bullying"~~] means [~~engaging in~~]  
10 written or verbal expression or physical conduct that a student or  
11 group of students exhibits toward another particular student or  
12 another particular group of students and that a school district  
13 board of trustees or the board's designee determines:

14 (A) [~~(1)~~] will have the effect of physically or  
15 mentally harming a student, damaging a student's property, or  
16 placing a student in reasonable fear of harm to the student's person  
17 or of damage to the student's property; or

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

21 (2) "Cyberbullying" means electronic communication,  
22 including through the use of a cellular or other type of telephone,  
23 a computer, a pager, a camera, electronic mail, instant messaging,  
24 text messaging, or an Internet website, from a student to another  
25 student or from a student to a school district employee:

26 (A) that a district board of trustees or the  
27 board's designee determines:

1           (i) will have the effect of physically or  
2 mentally harming a student, damaging a student's property, or  
3 placing a student in reasonable fear of harm to the student's person  
4 or of damage to the student's property; or

5           (ii) is sufficiently severe, persistent, or  
6 pervasive enough that the action or threat creates an intimidating,  
7 threatening, or abusive educational environment for a student or  
8 district employee; and

9           (B) that takes place:

10           (i) on district property, during a school  
11 or school-sponsored activity, on a school bus, or at a school bus  
12 stop;

13           (ii) through a district data system without  
14 proper authorization by a district employee; or

15           (iii) through a computer network off of  
16 district property.

17           (a-1) In making a determination under Subsection (a), the  
18 board of trustees or the board's designee shall consider:

19           (1) the specific written or verbal expression,  
20 physical conduct, or electronic communication by the perpetrator;

21           (2) whether the written or verbal expression,  
22 physical conduct, or electronic communication occurred in front of  
23 or was communicated to a person other than the victim;

24           (3) the manner in which the perpetrator interacted  
25 with the victim; and

26           (4) the perpetrator's motivation, either admitted or  
27 appropriately inferred.

1 (b) On the request of a parent or other person with  
2 authority to act on behalf of a student who is a victim of bullying  
3 or cyberbullying, the board of trustees of a school district or the  
4 board's designee shall transfer the victim to:

5 (1) another classroom at the campus to which the  
6 victim was assigned at the time the bullying or cyberbullying  
7 occurred; or

8 (2) a campus in the school district other than the  
9 campus to which the victim was assigned at the time the bullying or  
10 cyberbullying occurred.

11 (c) The board of trustees or the board's designee shall  
12 verify that a student has been a victim of bullying or cyberbullying  
13 before transferring the student under this section.

14 SECTION 4. Chapter 26, Education Code, is amended by adding  
15 Section 26.016 to read as follows:

16 Sec. 26.016. LIABILITY OF PARENTS FOR BULLYING OR  
17 CYBERBULLYING BY CHILD. (a) In this section, "bullying" and  
18 "cyberbullying" have the meanings assigned by Section 25.0342.

19 (b) A student's parent who negligently fails to exercise  
20 reasonable control or discipline over the student as necessary to  
21 prevent bullying or cyberbullying by the student commits an  
22 offense. An offense under this subsection is a misdemeanor  
23 punishable by a fine not to exceed \$100 for each day on which the  
24 bullying or cyberbullying occurs. Each fine collected under this  
25 subsection shall be deposited to the operating fund of the school  
26 district in which the student attends school to be used to provide  
27 training under Section 21.451(d)(3).

1       (c) A student's parent who negligently fails to exercise  
2 reasonable control or discipline over the student as necessary to  
3 prevent bullying or cyberbullying by the student is liable to the  
4 extent provided by Subsection (e) for any injury to or the death of  
5 another student that is proximately caused by the bullying or  
6 cyberbullying.

7       (d) A student's parent who negligently fails to exercise  
8 reasonable control or discipline over the student as necessary to  
9 prevent cyberbullying by the student is liable to the extent  
10 provided by Subsection (e) for any injury to or the death of a  
11 school district employee that is proximately caused by the  
12 cyberbullying, if the cyberbullying is in retaliation for or as a  
13 result of the employee's employment or association with the  
14 district, without regard to whether the cyberbullying occurs on or  
15 off of school district property or while attending a  
16 school-sponsored or school-related activity on or off of school  
17 property.

18       (e) Recovery under Subsection (c) or (d) is limited to  
19 actual damages for medical, dental, or hospital expenses, not to  
20 exceed \$25,000, plus court costs and attorney's fees.

21       SECTION 5. Sections 37.001(a) and (b), Education Code, are  
22 amended to read as follows:

23       (a) The board of trustees of an independent school district  
24 shall, with the advice of its district-level committee established  
25 under Subchapter F, Chapter 11, adopt a student code of conduct for  
26 the district. The student code of conduct must be posted and  
27 prominently displayed at each school campus or made available for

1 review at the office of the campus principal. In addition to  
2 establishing standards for student conduct, the student code of  
3 conduct must:

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

7 (2) specify conditions that authorize or require a  
8 principal or other appropriate administrator to transfer a student  
9 to a disciplinary alternative education program;

10 (3) outline conditions under which a student may be  
11 suspended as provided by Section 37.005 or expelled as provided by  
12 Section 37.007;

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

19 (A) self-defense;

20 (B) intent or lack of intent at the time the  
21 student engaged in the conduct;

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

23 (D) a disability that substantially impairs the  
24 student's capacity to appreciate the wrongfulness of the student's  
25 conduct;

26 (5) provide guidelines for setting the length of a  
27 term of:

1 (A) a removal under Section 37.006; and

2 (B) an expulsion under Section 37.007;

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

7 (7) prohibit bullying, cyberbullying, harassment, and  
8 making hit lists and ensure that district employees enforce those  
9 prohibitions; and

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

12 (A) managing students in the classroom and on  
13 school grounds;

14 (B) disciplining students; and

15 (C) preventing and intervening in student  
16 discipline problems, including bullying, cyberbullying,  
17 harassment, and making hit lists.

18 (b) In this section:

19 (1) "Bullying" and "cyberbullying" have the meanings  
20 assigned by Section 25.0342.

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

27 (3) [~~2~~] "Hit list" means a list of people targeted

1 to be harmed, using:

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

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

6 (C) any other object to be used with intent to  
7 cause bodily harm.

8 SECTION 6. Section 37.083(a), Education Code, is amended to  
9 read as follows:

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

17 SECTION 7. Section 37.217(a), Education Code, is amended to  
18 read as follows:

19 (a) The center, in cooperation with the attorney general,  
20 shall develop a program that provides instruction concerning  
21 Internet safety, including instruction relating to:

22 (1) the potential dangers of allowing personal  
23 information to appear on an Internet website;

24 (2) the manner in which to report an inappropriate  
25 online solicitation; and

26 (3) the prevention, detection, and reporting of  
27 bullying or cyberbullying, as those terms are defined by Section

1 25.0342 [~~or threats occurring over the Internet~~].

2 SECTION 8. Chapter 37, Education Code, is amended by adding  
3 Subchapter Z to read as follows:

4 SUBCHAPTER Z. MISCELLANEOUS PROVISIONS RELATING TO DISCIPLINE

5 Sec. 37.902. OFFENSE: BULLYING OR CYBERBULLYING. (a) In  
6 this section, "bullying" and "cyberbullying" have the meanings  
7 assigned by Section 25.0342.

8 (b) A student who engages in bullying or cyberbullying  
9 commits an offense.

10 (c) An offense under this section is a misdemeanor  
11 punishable by a fine not to exceed \$100 for each day on which the  
12 bullying or cyberbullying occurs.

13 (d) Each fine collected under this section shall be  
14 deposited to the operating fund of the school district in which the  
15 student attends school to be used to provide training under Section  
16 21.451(d)(3).

17 SECTION 9. Sections 41.001 and 41.002, Family Code, are  
18 amended to read as follows:

19 Sec. 41.001. LIABILITY. A parent or other person who has  
20 the duty of control and reasonable discipline of a child is liable  
21 for any property damage proximately caused by:

22 (1) the negligent conduct of the child if the conduct  
23 is reasonably attributable to the negligent failure of the parent  
24 or other person to exercise that duty; or

25 (2) the wilful and malicious conduct of a child who is  
26 [~~at least 10 years of age but~~] under 18 years of age.

27 Sec. 41.002. LIMIT OF DAMAGES. Recovery for property

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1 damage caused by wilful and malicious conduct is limited to actual  
2 damages, not to exceed \$25,000 per occurrence, plus court costs and  
3 reasonable attorney's fees.

4 SECTION 10. This Act takes effect September 1, 2011.