

By: Coleman

H.B. No. 2343

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of Asher's Law, the public health threat
3 presented by youth suicide and to the prevention of associated
4 discrimination, harassment, bullying, and cyberbullying.

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

6 SECTION 1. This Act shall be known as Asher's Law.

7 SECTION 2. The legislature finds that:

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

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

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

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

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

1 (6) increased levels of victimization, as described by
2 Subdivision (5), also lead to increased levels of depression and
3 anxiety and decreased levels of self-esteem; and

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

6 (8) Be it resolved that this act is dedicated to Asher
7 Brown and to every child that has fallen victim to the severe
8 emotional trauma caused by bullying and harassment.

9 SECTION 3. Chapter 161, Health and Safety Code, is amended
10 by adding Subchapter O-1 to read as follows:

11 SUBCHAPTER O-1. PREVENTION OF YOUTH SUICIDE

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

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

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

25 (2) intervene effectively with those students by
26 providing all appropriate assistance, including referrals for
27 mental health services.

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

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

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

12 SECTION 4. Subchapter D, Chapter 11, Education Code, is
13 amended by adding Section 11.174 to read as follows:

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

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

21 (2) "Sexual orientation" means heterosexuality,
22 homosexuality, or bisexuality.

23 (b) A school district or employee of a school district may
24 not:

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

27 (A) the actual or perceived ethnicity, color,

1 gender, gender identity or expression, sexual orientation,
2 disability, religion, or national origin of the employee, student,
3 or student's parent; or

4 (B) one or more persons with whom the employee,
5 student, or student's parent associates; or

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

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

10 (1) on school property;

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

13 (3) in connection with transportation of students in a
14 vehicle owned or operated by a school district or owned or operated
15 by another entity under contract with a school district.

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

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

1 required by Section 39.332.

2 SECTION 5. The heading to Section 25.0342, Education Code,
3 is amended to read as follows:

4 Sec. 25.0342. TRANSFER OF STUDENTS WHO ARE VICTIMS OF OR
5 HAVE ENGAGED IN BULLYING.

6 SECTION 6. Section 25.0342, Education Code, is amended by
7 amending Subsections (a), (c), and (e) and adding Subsections (b-1)
8 and (b-2) to read as follows:

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

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

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

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

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

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

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

4 (c) The board of trustees or the board's designee shall
5 verify that a student has been a victim of or has engaged in
6 bullying, as applicable, before transferring the student under this
7 section.

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

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

13 (b) In this section:

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

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

22 (3) [~~(2)~~] "Hit list" means a list of people targeted
23 to be harmed, using:

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

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

1 (C) any other object to be used with intent to
2 cause bodily harm.

3 SECTION 8. Subchapter C, Chapter 37, Education Code, is
4 amended by adding Section 37.0832 to read as follows:

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

7 (1) "Bullying":

8 (A) means engaging in written or verbal
9 expression or physical conduct, including an action motivated by
10 the perceived or actual characteristics, behavior, or beliefs of a
11 student, that:

12 (i) will have the effect of physically
13 harming a student, damaging a student's property, or placing a
14 student in reasonable fear of harm to the student's person or of
15 damage to the student's property;

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

19 (iii) interferes with a student's
20 educational opportunities; or

21 (iv) substantially disrupts the operation of
22 a school; and

23 (B) includes cyberbullying.

24 (2) "Cyberbullying" means bullying, harassment, or
25 intimidation that is done using electronic communication,
26 including electronic media.

27 (b) The board of trustees of each school district shall

1 adopt a policy concerning bullying that:

2 (1) prohibits bullying of a student;

3 (2) prohibits retaliation against any person,
4 including a victim, witness, or another person, who in good faith
5 provides information concerning an incident of bullying; and

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

8 (c) Each school district shall:

9 (1) provide annual written notice of the policy
10 adopted under Subsection (b) to each district student, the parent
11 or guardian of each district student, and each district employee or
12 volunteer;

13 (2) post the policy on district and campus Internet
14 websites; and

15 (3) include the policy in student and employee
16 handbooks.

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

23 SECTION 9. (a) Each school district shall submit to the
24 Texas Education Agency information as required under Sections
25 11.174(e) and 37.0832(d), Education Code, as added by this Act,
26 beginning with the 2012-2013 school year based on incidents of
27 discrimination, harassment, and bullying during the 2011-2012

1 school year.

2 (b) The Texas Education Agency shall include the
3 information required under Sections 11.174(e) and 37.0832(d),
4 Education Code, as added by this Act, in the comprehensive annual
5 report required by Section 39.332, Education Code, beginning with
6 the report required to be submitted not later than December 1, 2012.

7 SECTION 10. This Act applies beginning with the 2011-2012
8 school year.

9 SECTION 11. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2011.