

By: Villalba

H.B. No. 985

A BILL TO BE ENTITLED

AN ACT

1
2 relating to mental health screening for public school students who
3 may be a danger to self or others and to suspension or educational
4 placement of those students; creating an offense.

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

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

7 SECTION 2. Section 12.131(a), Education Code, is amended to
8 read as follows:

9 (a) The governing body of an open-enrollment charter school
10 shall adopt a code of conduct for its district or for each campus.
11 In addition to establishing standards for behavior, the code of
12 conduct must [~~shall~~] outline generally the types of prohibited
13 behaviors and their possible consequences and must provide notice
14 that certain conduct or statements may, in accordance with Section
15 37.0052, subject a student to suspension, placement in an
16 alternative program, if available, or expulsion. The code of
17 conduct must [~~shall~~] also outline the school's due process
18 procedures with respect to expulsion. Notwithstanding any other
19 provision of law, a final decision of the governing body of an
20 open-enrollment charter school with respect to actions taken under
21 the code of conduct may not be appealed.

22 SECTION 3. Section 37.001(a), Education Code, as amended by
23 Chapters 487 (S.B. 1541) and 1409 (S.B. 1114), Acts of the 83rd
24 Legislature, Regular Session, 2013, is reenacted and amended to

1 read as follows:

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

10 (1) specify the circumstances, in accordance with this
11 subchapter, under which a student may be removed from a classroom,
12 campus, disciplinary alternative education program, or school
13 bus~~[-]~~ or other vehicle owned or operated by the district;

14 (2) specify conditions that authorize or require a
15 principal or other appropriate administrator to transfer a student
16 to a disciplinary alternative education program;

17 (3) outline conditions under which a student may be
18 suspended as provided by Section 37.005 or expelled as provided by
19 Section 37.007;

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

26 (A) self-defense;

27 (B) intent or lack of intent at the time the

1 student engaged in the conduct;

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

3 (D) a disability that substantially impairs the
4 student's capacity to appreciate the wrongfulness of the student's
5 conduct;

6 (5) provide guidelines for setting the length of a
7 term of:

8 (A) a removal under Section 37.006; and

9 (B) an expulsion under Section 37.007;

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

14 (7) prohibit bullying, harassment, and making hit
15 lists and ensure that district employees enforce those
16 prohibitions; ~~and~~

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

19 (A) managing students in the classroom, on school
20 grounds, and on a vehicle owned or operated by the district;

21 (B) disciplining students; and

22 (C) preventing and intervening in student
23 discipline problems, including bullying, harassment, and making
24 hit lists; and

25 (9) provide notice that certain conduct or statements
26 may subject a student to suspension or placement in a disciplinary
27 alternative education program under Section 37.0052.

1 SECTION 4. Subchapter A, Chapter 37, Education Code, is
2 amended by adding Section 37.0052 to read as follows:

3 Sec. 37.0052. SUSPENSION OR PLACEMENT IN DISCIPLINARY
4 ALTERNATIVE EDUCATION PROGRAM BASED ON NEED FOR MENTAL HEALTH
5 SCREENING. (a) In this section:

6 (1) "Local mental health authority" has the meaning
7 assigned by Section 531.002, Health and Safety Code.

8 (2) "Serious bodily injury" has the meaning assigned
9 by Section 1.07, Penal Code.

10 (3) "Sexual violence" means conduct that constitutes
11 an offense under Section 22.011, Penal Code, other than conduct to
12 which the affirmative defense provided by Section 22.011(e), Penal
13 Code, would apply.

14 (b) Subject to Subsection (c), if an educator employed by a
15 school district or open-enrollment charter school observes or is
16 informed about conduct of a student or a statement made by the
17 student that would cause a reasonable person to believe the student
18 intends or is likely to commit sexual violence against another or
19 intends or is likely to cause serious bodily injury to self or
20 others, the educator shall provide notice to the school counselor.
21 The notice must be a signed writing, must be delivered in person or
22 through electronic mail, and must describe the conduct or statement
23 of the student. If a school counselor is not employed at the school,
24 the educator shall provide notice to the principal in the same
25 manner. For purposes of this section, a statement may be oral or
26 written and includes statements made through electronic mail or
27 social media.

1 (c) Subsection (b) applies only to an educator who observes
2 or is informed about conduct or a statement of a student who attends
3 school at the campus where the educator is employed.

4 (d) Subsection (b) applies regardless of whether the
5 student's conduct or statement occurs:

6 (1) on or off school property; or

7 (2) during or outside regular school hours.

8 (e) A school counselor or a principal who receives notice
9 under Subsection (b) shall consider the information provided in the
10 notice and may:

11 (1) investigate the conduct or statement;

12 (2) consult with administrators at the campus and the
13 educator who provided the notice; or

14 (3) interview the student or any other person with
15 knowledge about the conduct or statement.

16 (f) A school counselor who concludes that a reasonable
17 person would believe the student intends or is likely to commit
18 sexual violence against another or intends or is likely to cause
19 serious bodily injury to self or others shall inform the principal
20 about the school counselor's conclusion.

21 (g) Except as provided by Subsection (h), a principal shall
22 provide a student with a 30-day notice of intent to suspend the
23 student if the principal:

24 (1) receives notice about a student under Subsection
25 (b) and concludes that a reasonable person would believe the
26 student intends or is likely to commit sexual violence against
27 another or intends or is likely to cause serious bodily injury to

1 self or others; or

2 (2) is informed about a school counselor's conclusion
3 concerning a student under Subsection (f).

4 (h) If a student's conduct requires expulsion under Section
5 37.007, the principal shall expel the student in accordance with
6 that section and this section does not apply. If a student's
7 conduct requires placement in a disciplinary alternative education
8 program under Section 37.006, this section applies and any
9 provision of Section 37.006 does not apply to the extent the
10 provision is inconsistent with this section.

11 (i) A school counselor or a principal who receives notice
12 under Subsection (b) about a student who subsequently is subject to
13 a notice of intent to suspend under Subsection (g) shall:

14 (1) provide the student's name and address and
15 information concerning the conduct or statement that led to the
16 notice of intent to suspend to:

17 (A) the school district police department, if the
18 school counselor or principal is employed by a school district and
19 the district has a police department;

20 (B) the police department of the municipality in
21 which the school is located or, if the school is not in a
22 municipality, the sheriff of the county in which the school is
23 located; and

24 (C) the local mental health authority nearest the
25 school; and

26 (2) inform the student's parent or guardian about:

27 (A) the notice of intent to suspend;

1 (B) the conduct or statement that led to the
2 notice of intent to suspend; and

3 (C) the requirement that the parent or guardian,
4 before the expiration of the 30-day period, to avoid suspension of
5 the student under this section, take the student to the nearest
6 local mental health authority or a physician specializing in
7 psychiatry to receive a mental health screening and a certificate
8 of medical examination for mental illness, as described by Section
9 533.03522(c), Health and Safety Code, that contains the examining
10 physician's opinion that the student is not a danger to self or
11 others.

12 (j) A parent or guardian of a student subject to a notice of
13 intent to suspend under Subsection (g) shall take the student to the
14 nearest local mental health authority or a physician specializing
15 in psychiatry to receive a mental health screening and a
16 certificate of medical examination for mental illness, as described
17 by Section 533.03522(c), Health and Safety Code.

18 (k) If, before the expiration of the 30-day period of the
19 notice of intent to suspend under Subsection (g), the school
20 receives for the student a certificate of medical examination for
21 mental illness, as described by Section 533.03522(c), Health and
22 Safety Code, that contains the examining physician's opinion that
23 the student is not a danger to self or others, the student is no
24 longer subject to suspension under this section with respect to the
25 conduct or statement that was the basis of the notice of intent to
26 suspend, and the school shall destroy any record of that conduct or
27 statement and any record involving an action of the school taken

1 under this section. The school shall also notify each law
2 enforcement agency that received notification of the intent to
3 suspend the student under Subsection (i).

4 (1) If the school does not receive for the student the
5 certificate of medical examination described by Subsection (k)
6 before the expiration of the 30-day period of the notice of intent
7 to suspend, the principal shall immediately suspend the student.

8 (m) A suspension under this section ends:

9 (1) when the parent or guardian of the student
10 provides the school with a certificate of medical examination for
11 mental illness, as described by Section 533.03522(c), Health and
12 Safety Code, that contains the examining physician's opinion that
13 the student is not a danger to self or others; or

14 (2) on the 15th calendar day after the date the student
15 is suspended under this section.

16 (n) A student whose suspension by a school district ends
17 under Subsection (m)(2) shall be placed in the district's
18 disciplinary alternative education program until the student
19 provides a certificate of medical examination for mental illness,
20 as described by Section 533.03522(c), Health and Safety Code, that
21 contains the examining physician's opinion that the student is not
22 a danger to self or others. A student whose suspension by an
23 open-enrollment charter school ends under Subsection (m)(2) shall
24 be placed in the school's alternative program, if an alternative
25 program exists, until the student provides the necessary
26 certificate of medical examination, or shall be expelled, if an
27 alternative program does not exist.

1 (o) A person commits an offense if the person knowingly
2 makes or causes to be made a false statement to an educator
3 concerning the conduct of a student or a statement made by a student
4 with intent that the student be subject to the provisions of this
5 section. An offense under this subsection is a Class A misdemeanor.

6 SECTION 5. Section 37.008(h), Education Code, is amended to
7 read as follows:

8 (h) A school district may not place a student, other than a
9 student suspended as provided under Section 37.005, a student
10 suspended as provided under Section 37.0052, or a student expelled
11 as provided under Section 37.007, in an unsupervised setting as a
12 result of conduct for which a student may be placed in a
13 disciplinary alternative education program.

14 SECTION 6. Section 37.020(b), Education Code, is amended to
15 read as follows:

16 (b) For each placement in a disciplinary alternative
17 education program established under Section 37.008, the district
18 shall report:

19 (1) information identifying the student, including
20 the student's race, sex, and date of birth, that will enable the
21 agency to compare placement data with information collected through
22 other reports;

23 (2) information indicating whether the placement was
24 based on:

25 (A) conduct violating the student code of conduct
26 adopted under Section 37.001;

27 (B) conduct for which a student may be removed

1 from class under Section 37.002(b);

2 (C) conduct for which placement in a disciplinary
3 alternative education program is required by Section 37.006; ~~[or]~~

4 (D) conduct occurring while a student was
5 enrolled in another district and for which placement in a
6 disciplinary alternative education program is permitted by Section
7 37.008(j); or

8 (E) failure to provide the certificate of medical
9 examination for mental illness required by Section 37.0052;

10 (3) the number of full or partial days the student was
11 assigned to the program and the number of full or partial days the
12 student attended the program; and

13 (4) the number of placements that were inconsistent
14 with the guidelines included in the student code of conduct under
15 Section 37.001(a)(5).

16 SECTION 7. Subchapter B, Chapter 533, Health and Safety
17 Code, is amended by adding Section 533.03522 to read as follows:

18 Sec. 533.03522. MENTAL HEALTH SCREENINGS FOR CERTAIN
19 STUDENTS. (a) A local mental health authority shall ensure that a
20 mental health screening is provided to a student identified to the
21 authority under the notice requirements of Section 37.0052(i),
22 Education Code, if the student's parent or guardian requests the
23 screening.

24 (b) A mental health screening provided to a student for
25 purposes of Section 37.0052, Education Code, must be conducted by a
26 physician specializing in psychiatry and must be sufficient to
27 allow the examining physician to provide the student's parent or

1 guardian with a certificate of medical examination for mental
2 illness for the student that conforms with the requirements of
3 Subsection (c).

4 (c) A certificate of medical examination for mental illness
5 under this section must be sworn to, dated, and signed by the
6 examining physician. The certificate must include:

7 (1) the name and address of the examining physician;

8 (2) the name and address of the student examined;

9 (3) the date and place of the examination;

10 (4) a brief diagnosis of the examined student's
11 physical and mental condition;

12 (5) the period, if any, during which the examined
13 student has been under the care of the examining physician;

14 (6) an accurate description of the mental health
15 treatment, if any, given by or administered under the direction of
16 the examining physician; and

17 (7) the examining physician's opinion as to whether:

18 (A) the examined student is mentally ill; and

19 (B) as a result of that illness the examined
20 student is likely a danger to self or others.

21 (d) A student's parent or guardian is responsible for the
22 cost of a mental health screening, except that for a student who is
23 a Medicaid recipient or enrollee in the state child health plan
24 under Chapter 62, the local mental health authority shall seek
25 reimbursement for the cost of the mental health screening, if
26 available.

27 SECTION 8. This Act applies beginning with the 2015-2016

1 school year.

2 SECTION 9. (a) Except as provided by Subsection (b) of this
3 section:

4 (1) this Act takes effect immediately if it receives a
5 vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution; and

7 (2) if this Act does not receive the vote necessary for
8 immediate effect, this Act takes effect September 1, 2015.

9 (b) Section 37.0052(o), Education Code, as added by this
10 Act, takes effect September 1, 2015.