

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill Nos. 408, 306 & 854, Page 1, Section A, Line 2, by
2 inserting after all of the said section and line the following:
3

4 "160.775. 1. Every district shall adopt an antibullying policy by September 1, 2007.

5 2. As used in this section, the following terms mean:

6 (1) "Act of school violence" or "violent behavior", the same meaning as in section 160.261;

7 (2) "Bullying" [~~means~~], intimidation, unwanted aggressive behavior, or harassment that is repetitive
8 or is substantially likely to be repeated and causes a reasonable student to fear for his or her physical safety or
9 property; substantially interferes with the educational performance, opportunities, or benefits of any student
10 without exception; or substantially disrupts the orderly operation of the school. Bullying may consist of
11 physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any
12 threat of retaliation for reporting of such acts. Bullying of students is prohibited on school property, at any
13 school function, or on a school bus[-];

14 (3) "Crime", any of the crimes listed in section 160.261;

15 (4) "Cyberbullying" [~~means~~], bullying as defined in this subsection through the transmission of a
16 communication including, but not limited to, a message, text, sound, or image by means of an electronic
17 device including, but not limited to, a telephone, wireless telephone, or other wireless communication device,
18 computer, or pager.

19 3. Each school district's and charter school's antibullying policy shall be founded on the assumption
20 that all students need a safe learning environment. Policies shall treat all students equally and shall not
21 contain specific lists of protected classes of students who are to receive special treatment. Policies may
22 include age-appropriate differences for schools based on the grade levels at the school. Each such policy
23 shall contain a statement of the consequences of bullying.

24 4. Each school district's and charter school's antibullying policy shall be included in the student
25 handbook and shall require, at a minimum, the following components:

26 (1) A statement prohibiting bullying, defined no less inclusively than in subsection 2 of this section;

27 (2) A statement requiring school district or charter school employees to report any instance of
28 bullying of which the employee has firsthand knowledge. The policy shall require a school district or charter
29 school employee who witnesses an incident of bullying to report the incident to the school district's or charter

Action Taken _____ Date _____

1 school's designated individual at the school within ~~two~~ one school ~~days~~ day of the employee witnessing
 2 the incident;

3 (3) A statement relating to pupils who engage in self-defense that the school district or charter school
 4 administration, when determining disciplinary action for a pupil who has committed an act of school violence
 5 or exhibited violent behavior, will take into account if such act of school violence or violent behavior was
 6 committed in self-defense as an immediate response to an act of school violence or violent behavior
 7 committed against such pupil;

8 (4) A procedure for reporting an act of bullying. The policy shall also include a statement requiring
 9 that the school district or charter school designate an individual at each school building in the district and
 10 charter school to receive reports of incidents of bullying. Such individual shall be a school district or charter
 11 school employee who is teacher level staff or above;

12 ~~[(4)] (5)~~ A procedure for prompt investigation of reports of violations and complaints, identifying
 13 one or more employees responsible for the investigation including, at a minimum, the following
 14 requirements:

15 (a) Within two school days of a report of an incident of bullying being received, the school principal,
 16 or his or her designee, shall initiate an investigation of the incident and ensure that the report is reduced to
 17 writing;

18 (b) The school principal may appoint other school staff to assist with the investigation; ~~and]~~

19 (c) The investigation shall be completed within ten school days from the date ~~[of the written report]~~
 20 the investigation is initiated under paragraph (a) of this subdivision unless good cause exists to extend the
 21 investigation; and

22 (d) A written report shall be prepared that contains the results of the investigation and any response
 23 including, but not limited to, a description of any interventions, initiatives, techniques, or discipline provided
 24 to all involved individuals of the incident. The school district or charter school may develop a standardized
 25 form to use for such written report;

26 ~~[(5)] (6)~~ A procedure for the response to any investigation that finds an act of bullying occurred.
 27 The policy shall, at a minimum, require notification of the parents of the bullying student and, if such
 28 bullying meets the elements of harassment in the second degree under section 565.091, referral to law
 29 enforcement agencies or to the children's division rather than law enforcement if the bullying student is under
 30 eleven years of age;

31 (7) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying
 32 and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

33 ~~[(6)] (8)~~ A statement of how the policy is to be publicized; and

34 ~~[(7)] (9)~~ A process for discussing the district's antibullying policy with students and training school
 35 employees and volunteers who have ~~[significant]~~ contact with students in the requirements of the policy,
 36 including, at a minimum, the following statements:

37 (a) The school district or charter school shall provide information and appropriate training to the
 38 school district or charter school staff who have ~~[significant]~~ contact with students regarding the policy

1 including, but not limited to, training on the appropriate interventions staff may take and the associated
2 liability for action or inaction including, but not limited to, failure to report incidents;

3 (b) The school district or charter school shall give annual notice of the policy to students, parents or
4 guardians, and staff;

5 (c) The school district or charter school shall provide education and information to students
6 regarding bullying, including information regarding the school district or charter school policy prohibiting
7 bullying, the harmful effects of bullying, and other applicable initiatives to address bullying, including
8 student peer-to-peer initiatives to provide accountability and policy enforcement for those found to have
9 engaged in bullying, reprisal, or retaliation against any person who reports an act of bullying;

10 (d) The administration of the school district or charter school shall instruct its school counselors,
11 school social workers, licensed social workers, mental health professionals, and school psychologists to
12 educate students who are victims of bullying and students committing acts of bullying on techniques for
13 students to overcome bullying's negative effects. Such techniques shall include, but not be limited to,
14 cultivating the student's self-worth and self-esteem; teaching the student to defend himself or herself
15 assertively and effectively; helping the student develop social skills; or encouraging the student to develop an
16 internal locus of control. The provisions of this paragraph shall not be construed to contradict or limit any
17 other provision of this section; and

18 (e) The administration of the school district or charter school shall implement programs and other
19 initiatives to address bullying, to respond to such conduct in a manner that does not stigmatize the victim, and
20 to make resources or referrals available to victims of bullying and students committing acts of bullying.

21 5. Notwithstanding any other provision of law to the contrary, any school district or charter school
22 shall have jurisdiction to prohibit cyberbullying that originates on a school's campus or at a district activity if
23 the electronic communication was made using the school's technological resources, if there is a sufficient
24 nexus to the educational environment, or if the electronic communication was made on the school's campus
25 or at a school district or charter school activity using the student's own personal technological resources. The
26 school district or charter school may discipline any student for such cyberbullying to the greatest extent
27 allowed by law.

28 6. Each school district and charter school shall review its antibullying policy and revise it as needed.
29 The school district's school board or charter school's governing board shall receive input from school
30 personnel, students, and administrators when reviewing and revising the policy.

31 7. (1) The administration of each school district and charter school shall report to the school board
32 or governing board all acts of bullying, acts of school violence or violent behavior, and crimes that occurred
33 in between board meetings and the discipline of any pupil who committed such acts. Such report shall be
34 submitted monthly and shall be formatted to clearly describe each such incident.

35 (2) The school board or governing board shall review such monthly report in a closed meeting under
36 chapter 610. Discrepancies in such report shall be resolved within thirty days of the review and the board, in
37 conjunction with the school administration, shall attempt to address and resolve substantiated concerns
38 relating to incidents listed on such report, as concerns are expressed during such monthly review by school
39 administration or school board or governing board members.

1 8. (1) A school district or charter school employee or volunteer may, in the course of fulfilling
 2 duties or performing services for such school district or charter school, intervene in an incident involving an
 3 act of bullying, act of school violence or violent behavior, or crime committed against a pupil to protect such
 4 pupil.

5 (2) Such school district or charter school employee or volunteer shall be held harmless and immune
 6 from any liability for actions described in subdivision (1) of this subsection if:

7 (a) In the course of intervening in such incident, such employee or volunteer follows a proper
 8 procedure for such interventions adopted by the school board of such school district or the charter school's
 9 governing board; or

10 (b) Such employee or volunteer intervenes in good faith and in a manner that such employee or
 11 volunteer reasonably believes is afforded the defense of justification under chapter 563.

12 9. (1) A school district or charter school, or an employee of such district or charter school, that in
 13 good faith imposes disciplinary action under this section upon a bullying student shall not be civilly liable for
 14 such disciplinary action.

15 (2) If a school district or charter school, or an employee of such district or charter school, prevails in
 16 an action brought against such school district, charter school, or employee described in subdivision (1) of this
 17 subsection, the court shall award court costs and attorney's fees to such prevailing school district, charter
 18 school, or employee.

19 10. (1) This section shall not be construed to provide immunity from liability for a school district's
 20 or charter school's denial, or the denial by an employee of such district or charter school, of any
 21 constitutionally protected right of a student.

22 (2) Subdivision (1) of this subsection shall not be construed to limit any immunities or defenses
 23 available under state or federal law to a school district, a charter school, or employees or volunteers of such
 24 school district or charter school.

25 11. (1) For the purposes of reporting requirements under section 210.115, incidents of bullying, acts
 26 of school violence or violent behavior, or crime may be considered abuse.

27 (2) If two or more employees or volunteers who are required to report jointly have knowledge of a
 28 known or suspected instance of child abuse, a single report may be made by the school district's or charter
 29 school's designated member. Any individual who has knowledge that the individual designated to report has
 30 failed to do so shall thereafter immediately make the report. No provision of this section shall be construed
 31 to preclude any person from reporting such abuse and such person shall be afforded the same protections
 32 provided under sections 210.135 and 210.145 for reports of abuse in compliance with section 210.115.

33 12. No charter school shall expel or transfer a student to a school district solely due to reports of
 34 bullying made against such student."; and

35
 36 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.