How to Comply With Texas SB 471-
A Step-by-Step Description

<mark>-FOR SCHOOLS-</mark>

OVERVIEW
In 2009, the Texas Legislature passed House Bill 1041: Jenna's Law. HB 1041 outlined an initiative requiring *sexual abuse awareness training* and *policies* for independent school districts in Texas. The initiative and its requirements were studied by a task force, which was to create and present a plan to the Texas Governor within a year of the Bill's passage.

In June of 2011, the Texas Legislature passed Senate Bill 471. Essentially, SB 471 takes Jenna's Law from concept to reality, while modifying and expanding the original Bill.

OBSERVATIONS

Other Maltreatment
Jenna's Law addressed only the risks related to sexual abuse and sexual abusers; SB 471 expands the scope of risk to include "sexual abuse and other maltreatment". Adding the phrase "and other maltreatment" introduces additional types of risk which are difficult to address with precision. The definition of "other maltreatment" is ultimately found in Sections 261.001 and 261.401 of the Texas Family Code.

In concept, SB 471 broadens the scope from the risk of sexual abuse to include other risks to children: emotional abuse, physical abuse and neglect. Though the expanded concept is valuable, the practical application is challenging.

Charter Schools
Jenna's Law (2009) was directed at independent (public) school districts only. SB 471 expands those entities who must comply to include *open-enrollment charter schools.*

Private Schools
Though not listed as entities mandated to abide by Jenna's Law or SB 471, private schools should comply with the policy and training requirements. Both Jenna's Law and SB 471 are designed to protect students from abuse and neglect. To suggest that students in private schools are either not at risk or not entitled to similar protections is a departure from common sense – and potentially negligent. The new legislation creates a 'standard of care' for reasonable educational entities concerning the protection of children from abuse or neglect.   This standard of care will be used in civil litigation to measure the behavior of a school if a child is

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victimized – whether public, charter or private school. Additionally, public schools and most charter schools enjoy immunities from civil lawsuits that private schools do not. In sum, this new legislation may be more significant to Texas *private schools* than any other educational entity.

Staff, Students and Parents
Both Jenna's Law and SB 471 require certain information be provided to school staff, including teachers, coaches, and professional staff members. Policies and workplace training requirements aimed at *school staff members* are commonplace. Compliance with the 'staff portion' of SB 471 takes work, but is not outside the normal interaction between school and staff members.

SB 471, however, also requires policies and training aimed at *students* and *parents*. This presents a challenge. It is clear that the legislature intends to extend the umbrella of protection to include students and parents, but SB 471 does not clearly address 'how' to do so. Of immediate concern is the challenge of creating and delivering age-appropriate materials to students, and overcoming potential language barriers.

COMPLIANCE – WHAT TO DO

This article analyzes the new legislation to allow schools to better understand how to fulfill SB 471's requirements. At present, few resources exist to instruct schools concerning compliance, though it is possible additional instruction will be forthcoming from the TEA or the TDFPS. Because the law became effective *immediately*, schools must immediately learn **what** the new law requires and **how** to comply. Admittedly, some aspects of the new legislation will challenge the creativity of school administrators, and fall beyond the scope of this article (i.e. providing 'training' to grade-school students and students with language barriers or learning disabilities).

Below is a checklist of sorts containing those measures that must be put in place, in accordance with the new law. Although written by attorneys, this article should not be construed as legal advice, and no attorney-client relationship exists on the basis of this article, which is provided as an informational resource only.

GETTING STARTED

Polices
Section 38.0041 requires each school district and charter school to implement policies addressing sexual abuse and other maltreatment of children. Policy detail is outlined in eight subsections: (a) through (h).

 'Policies' bring to mind written guidelines addressing many matters affecting daily activity in school programming. Section 38.0041 requires more than adding a few paragraphs to existing handbooks; school administrators must attempt to grasp the *purpose* behind the new requirements.

Presumably, every school has written policies & procedures – a compilation of instructions covering matters related to school programming. For the moment, we must broaden our understanding of the term *'Policies'*, and distinguish it from *policies & procedures*. For our purposes, 'Policies' will refer to measures which must be put in place under the new law – subject matters which must be covered, whether in the form of training, written action plans or materials provided to parents or students. In contrast, policies & procedures are written rules and guidelines addressing matters related to school programming.   Of course, some 'Policies' required under the new law will be addressed in a written policies & procedures document. Sample policies & procedures are discussed below.

With its 'Policies', a school must address sexual abuse and maltreatment of children from two different points of view:

First: Raise awareness by teaching warning signs and preventative techniques.

Second: Be prepared to respond to a child who is a victim of abuse or neglect.

FIRST – TRAINING
The first measure is primarily accomplished through training. Each school's Policies must include 'methods' to increase awareness, and training is the primary method. The required training must cover certain topics delivered to separate categories of trainees: staff members, parents and students, and must include the following topics:

-recognition of sexual abuse *and all other maltreatment*;
-prevention techniques of sexual abuse *and all other maltreatment*
-factors indicating a child is at risk for sexual abuse *and all other maltreatment;*
-warning signs that a child may be a victim of sexual abuse *or other maltreatment*;
-techniques for reducing a child's risk of sexual abuse *or other maltreatment*;
-internal procedures for seeking assistance for a child who is at risk, including:
      *referral of the child to a school counselor;
      *referral of the child to a social worker;
      *referral of the child to a mental health professional;
-community organizations which provide additional or further training.

Below, training requirements are broken into categories by recipient: staff members, students and parents.

Staff Members
Here is the least cryptic requirement of the new legislation: new training requirements for staff members (teachers, coaches and professional staff members). School employees are accustomed to receiving training, especially during orientation. The newly-required Sexual Abuse and Maltreatment Prevention Training can be provided live or online. Section 38.0041(d) requires that training records be maintained, including the name of each staff member receiving training.

Interestingly, Section 38.0041(c)(1) and (2) indicates that the training MUST be completed as a part of new employee orientation, but MAY be provided annually for existing school staff members. Best practice is to require the training for all school staff members, repeat the training yearly, and track each staff member's completion and renewal.

Note: Abuse Prevention Systems and MinistrySafe provide <u>live</u> and <u>online</u> Sexual Abuse and Maltreatment Prevention Training addressing the proscribed topics, and tools to track trainee completion and renewal automatically through an online control panel. Learn more about online training and online tracking tools at <u>www.AbusePreventionSystems</u> and <u>www.MinistrySafe.com</u>.

Parents
School Policies must also include 'methods' for providing training to parents. The *timing* of parent training is not addressed in the new law, and there is no requirement that training completion be tracked, or renewed – only that parents receive training, which includes the categories of information listed above.

To meet this requirement, schools may:
-include parents in an all-staff/parent meeting that covers the required topics;
-have a separate live training just for parents, and require their attendance;
-utilize an online training; or
-prepare and provide written materials covering the required topics.

Note: if utilizing an online training, send training links to parents for completion of the training. Otherwise, develop or access written materials addressing the required training topics, and provide to parents (via Renweb, email, a hardcopy in child's backpack, etc.). To demonstrate compliance, create a packet requiring a parent's signature on an acknowledgement returned to the school administrator.

As of this writing, no standardized form covering these topics exists. A sample draft is available online to school administrators that are members of Abuse Prevention Systems or MinistrySafe. The draft written materials should be modified to fit each school's individual plan (or Policies) in fulfilling the requirements of SB 471. Learn more at <u>www.AbusePreventionSystems</u> and <u>www.MinistrySafe.com</u>.

Students

School Policies must also require 'methods' for providing the above training to students. Like parent training, the timing, tracking or renewing of student training is not addressed by the new law – only that students receive training including the categories of information listed above. For older students, this can be accomplished in a manner similar to parents. For younger students, age appropriate training must be provided. Best practice is to find local professionals with expertise in abuse prevention who communicate well with young children. At present, this is probably best done live.

Note: Identify a local professional in the community capable of addressing the required topics in an age-appropriate manner, and schedule such trainings during a school day. It is likely that certain grades can be grouped. Be prepared to create a multi-lingual plan.

SECOND – RESPONDING TO A VICTIM

Section 38.0041(c)(3)(C) requires that schools develop internal procedures for seeking assistance for a student who is at risk for sexual abuse or other maltreatment.

From a practical standpoint, each school should prepare an action plan which anticipates dealing with students who are victims of abuse or neglect. This plan should be in writing, outlining steps a school will take to protect a student from further abuse or neglect, and assist the student in finding help (i.e. referral to a school counselor, a social worker or another mental health professional).

The action plan should account for such variables as the age of the student and the source of the abuse or neglect (parent, family friend, school employee, peer).

Schools should prepare a list of community social workers, mental health workers and other counseling resources or clinics, to be provided to an older student or parent/guardian/care-giver.

Note: Develop a written action plan outlining steps taken when an outcry or information is received by school personnel concerning a student who is a victim of abuse or neglect. In this plan, include references to specific policies & procedures addressing the report of abuse or neglect to appropriate law enforcement authorities.

Note: Prepare a "Getting Help" document, provided to any student identified as a victim of abuse or neglect, or the student's parent/guardian/care-giver. This document should include instruction regarding reports of abuse or neglect to law enforcement, and a list of community social workers, mental health workers and other counseling resources or clinics. A list of Texas child advocacy centers can be found at www.AbusePreventionSystems.com and www.MinistrySafe.com in the "Resources" section under "Helpful Links".

A sample draft of this document ("Getting Help") is available online to school administrators that are members of Abuse Prevention Systems or MinistrySafe. This document should be modified to list local resources available in each school community. It should also be coordinated with the school's individual plan (or Policies) in fulfilling the requirements of SB 471.
Learn more at www.AbusePreventionSystems and www.MinistrySafe.com.

POLICIES & PROCEDURES

Each school should develop a *safety system* designed to reduce the risk of abuse and neglect in school programming. An effective school safety system should include:

-Sexual Abuse and Maltreatment Prevention Training
-Tailored Policies & Procedures
-Skillful Screening Processes
-Appropriate Criminal Background Checks
-Systems for Monitoring and Oversight

For schools with this system in place, the requirements of SB 471 require simple modifications and additional processes. For schools with little or no protections in place that address the risk of abuse or neglect, sample policies & procedures provide a good starting point. The elements of an *effective* safety system work together – no individual element provides a stand-alone solution.

Policies & procedures addressing sexual abuse and maltreatment should be in written form, and should be coordinated with staff member, student and parent training.

*Note: Develop written policies & procedures which clearly communicate training requirements and procedures for responding to a victim of abuse or neglect.

Sample policies & procedures addressing the risk of sexual abuse and other maltreatment, as well as reporting responsibilities and the use of social media, are available at Abuse Prevention Systems and MinistrySafe websites.

Learn more at www.AbusePreventionSystems and www.MinistrySafe.com.