

SUBJECT: Authorizing school boards to place students in alternative education programs

COMMITTEE: Public Education — favorable, without amendment

VOTE: 8 ayes — Grusendorf, Oliveira, Branch, Dawson, Eissler, Griggs, Hochberg, Madden

0 nays

1 absent — Dutton

WITNESSES: For — Polly J. Boyd; Holly Eaton, Texas Classroom Teachers Association; JoHannah Whitsett, Association of Texas Professional Educators

Against — None

On — David Anderson, Texas Education Agency

BACKGROUND: Felony offenses in Title 5, Penal Code, include murder, manslaughter, kidnapping, and indecency with a child.

Under Education Code, Ch. 37, school boards are required to adopt a student code of conduct for the district. The code of conduct must specify the circumstances under which a student may be removed from a classroom, campus, or alternative education program (AEP). A student must be removed from class and placed in an AEP if:

- the student engaged in conduct punishable as a felony on school property or while attending a school-related event;
- the student received deferred prosecution or was found guilty of a felony offense in Title 5, Penal Code, that occurred off campus and not at a school-sponsored event; or
- the superintendent or superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in Title 5, Penal Code.

A student also may be removed from class and placed in an AEP if the superintendent or the superintendent's designee has a reasonable belief that the student has committed a felony other than one listed in Title 5, Penal Code and the student's continued presence in the regular classroom would threaten the safety of other students or teachers or be detrimental to the education process.

Each school district is required to provide an AEP that:

- is provided in a setting other than a student's regular classroom;
- is located on or off of a regular school campus;
- provides for students in AEPs to be separated from students in the regular program;
- focuses on language arts, mathematics, science, history, and self-discipline;
- provides for students' educational needs; and
- provides supervision and counseling.

DIGEST:

HB 1314 would amend Education Code, ch. 37 to allow a school board or its designee, after a hearing, to elect to place a student in an AEP if the student had received deferred prosecution or adjudication for conduct defined as a felony in Title 5, Penal Code and the board or its designee determined that the student's presence in the regular classroom would threaten the safety of other students or teachers, would be detrimental to the educational process, or would not be in the best interests of the district's students. Any decision by the board or its designee would be final and could not be appealed.

The board or its designee could order placement in the AEP regardless of where or when the conduct occurred, whether the conduct occurred while the student was enrolled in the district, or whether the student had successfully completed any court disposition requirements imposed in connection with the conduct.

The board or its designee could order placement in an AEP for any period the board deemed necessary. A student would be entitled to periodic reviews as required in statute.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 1314 would give school boards clear statutory authority to place a student in an AEP if the board decided that the student's presence in the classroom was not in the best interests of the other students. The bill would clarify that the board could make this decision regardless of when the felony occurred, where the student was at the time, whether the student attended school in the district at the time of the incident, or whether the student had successfully completed any court disposition requirements.

While existing statutes give school boards clear authority to place a student in an AEP for actions committed while the student is attending school in the district, existing statutes are less clear about the board's authority when an offense was committed before the student enrolled in school in the district. This bill would make it clear in statute that a school board had the authority, for example, to remove from a K-12 school an older student who was convicted of child sexual abuse before moving to the district, so that the student would not have the opportunity to commit another offense against younger students at the school.

**OPPONENTS
SAY:**

HB 1314 is unnecessary because school districts already have broad authority in statutes governing the student code of conduct to place students in an AEP if the board determines that the student should not be in the classroom.

In addition, the bill would allow districts to place a student in an AEP indefinitely. A student who was referred indefinitely to an AEP that did not provide the courses needed to meet high school graduation requirements would be unable ever to graduate from high school and would have no incentive to continue attending school.