

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1181  
By: West, Royce  
Education  
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### **DIGEST AND PURPOSE**

Current law does not require a charter school to operate under Chapters 25 (Admission, Transfers, and Attendance) and 37 (Discipline; Law and Order), Education Code. As proposed, S.B. 1181 requires charter schools to operate under the rules of Chapter 25 and 37, Education Code, relating to student discipline.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.131, as follows:

Sec. 12.131. REMOVAL OF STUDENTS TO DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) Prohibits an open-enrollment charter school from removing a student to a disciplinary alternative education program or expelling a student unless the school complies with the provisions of Subchapter A, Chapter 37, relating to a removal to a disciplinary alternative education program or to expulsion, as applicable.

(b) Prohibits an open-enrollment charter school that elects to expel students from expelling a student for a reason that is not authorized by Section 37.007. Requires an open-enrollment school that elects to remove students to a disciplinary alternative education program to comply with the requirements for the program under Section 37.008.

(c) Authorizes an open-enrollment program charter school that enrolls a student who was removed to a disciplinary alternative education program or expelled by another open-enrollment charter school or by a school district to take certain actions.

SECTION 2. Amends Section 25.001(d), Education Code, to specify that the board of trustees (board) is not required to admit a person under this subsection if the person has engaged in conduct or misbehavior within the preceding year that has resulted in removal to a disciplinary alternative education program.

SECTION 3. Amends Section 25.085(d), Education code, to require that unless specifically exempted by Section 25.086, a student enrolled in a school district attend a summer program provided under Section 37.008(1) or Section 37.021. Makes nonsubstantive changes.

SECTION 4. Amends Section 37.001, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the board, with the advice of its district-level committee established under Subchapter F, Chapter 11, rather than under Section 11.251, to adopt a student code of

conduct for the district. Requires the student code, in addition to establishing standards for student conduct, to take certain actions into considerations and specify whether consideration is given to a defense that may be used as a defense to prosecution, including self-defense, as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion; provide guidelines for setting the length of term of a removal under Section 37.006 an expulsion under Section 37.007; and address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student.

(d) Requires the school district, each school year, to hold a public hearing to provide parents and other members of the public notice of and information regarding the student code of conduct.

SECTION 5. Amends Sections 37.002(c) and (d), Education Code, to make conforming changes.

SECTION 6. Amends Section 37.006, Education Code, by amending Subsections (a), (b), (d), (f), (h), and (l), and adding Subsections (m) and (n), as follows:

(a) Deletes text providing that Section 37.007(a)(3) or (b) is an exception to requiring a student from being removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student engages in certain conduct, including engaging in conduct that contains the elements of an offense relating to an abusable volatile chemical, rather than glue or aerosol paint, under Sections 485.031 through 485.034, rather than 485.035, Health and Safety Code. Deletes text referencing volatile chemicals under Chapter 484, Health and Safety Code.

(b)-(l) Make conforming changes.

(m) Provides that removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) Establishes that a principal or other appropriate administrator is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section unless the principal or other appropriate administrator has knowledge of the conduct before the first anniversary of the date the conduct occurred.

SECTION 7. Amends Section 37.007(e), Education Code, to require a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, in accordance with 20 U.S.C. Section 7151, rather than with federal law, to expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. Makes conforming and nonsubstantive changes.

SECTION 8. Amends Section 37.008, Education Code, as follows:

Sec. 37.008. New heading: DISCIPLINARY ALTERNATIVE PROGRAMS. (a) Requires each school district to provide a disciplinary alternative program that meets certain requirements. Makes conforming changes.

(b) Makes a conforming change.

(c)-(i) Make conforming changes.

(j) Authorizes a district under certain circumstances to take any action permitted by this subsection.

(j-1) Requires the district, if a student was placed in a disciplinary alternative

education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), to reduce the period of the placement so that the aggregate period does not exceed one year.

(k) Makes a conforming change.

(l) Establishes that a school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. Requires a school district to offer a student removed to a disciplinary alternative education program an opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of the removal. Authorizes the school district, for any other course in which the student was enrolled, to provide the student an opportunity to complete the course through any method available, including a correspondence course, distance learning, or summer school. Prohibits a district from charging the student for a course provided under this subsection, rather than under Subsection (a).

(m) Requires reviews, including on-site visits under Section 39.074, conducted by the Texas Education Agency (TEA) to monitor education program compliance to include, to the extent determined by the commissioner of education (commissioner) review of compliance with disciplinary alternative education program requirements. Makes a conforming change.

(n) Prohibits a school district, under a policy, contract, or other agreement with or for the benefit of a third party, from agreeing to remove a minimum number of students to a disciplinary alternative education program during the course of a school year; or to place a students in a disciplinary alternative program for a minimum number of days.

SECTION 9. Amends Section 37.009, Education Code, by amending Subsections (a)-(e),(g), and (h) and adding Subsections (i) and (j), as follows:

(a) Requires the order to give notice of inconsistency, if the period of the placement is inconsistent with the student code of conduct under Section 37.001(a)(5). Prohibits the period of the placement from exceeding one year. Makes conforming changes.

(b) Provides that if a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district.

(c) Makes a conforming change.

(d) Requires the order to give notice of the inconsistency, if the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5). Prohibits the period from exceeding one year.

(e) Decreases from 120 days to 60 days the interval at which a student placed in a disciplinary alternative education program must be provided a review of the student's status. Makes conforming and nonsubstantive changes.

(g) Makes conforming changes.

(h) Requires the order to give notice of the inconsistency, if the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5). Prohibits the period of an expulsion from exceeding one year.

(i) Authorizes the principal or the board, if a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, as appropriate, to complete the proceedings and enter an order. Authorizes the district, if the student subsequently enrolls in the district during the same or subsequent school year to enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. Authorizes the next district in which the student enrolls to complete the proceedings and enter an order, if the principal or board fails to enter an order after the student withdraws.

(j) Authorizes, if, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings to be conducted under this section regarding that conduct and authorizes the principal or board, as appropriate, to enter an additional order as a result of those proceedings. Requires the term of the additional placement or expulsion to run concurrently with the placement or expulsion in effect at the time the student engaged in the conduct for which the additional placement or expulsion is ordered.

SECTION 10. Amends Section 37.010, Education Code, by amending Subsections (a) and (c)-(g) and adding Subsection (g-1), follows:

(a) -(f) Make conforming changes.

(g) Authorizes a district under certain conditions to take any action permitted by this subsection. Makes conforming changes.

(g-1) Requires the district to reduce the period of the expulsion or placement so that the aggregate period does not exceed one year, if a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g).

SECTION 11. Amends Sections 37.011(a), (b), (h), (k), (l), and (p), Education Code,

(a) Provides that for the purpose of this subchapter, a disciplinary education program operated by an entity other than the juvenile board of a county is not considered a juvenile justice alternative education program.

(b) Requires the juvenile court, if a student is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), to take certain actions.

(h) Makes a nonsubstantive change.

(k) Makes a nonsubstantive changes.

(l) Requires a district to be be responsible for providing an immediate educational program to students who are expelled from the district or an open-enrollment charter school for conduct for which expulsion is required under Section 37.007 but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. Provides that a school district is responsible under this subsection for providing an educational program to a student expelled from an open-enrollment charter school only if the student is otherwise eligible for admission to the school district under Section 25.001. Deletes text providing that student is expelled for engaging in behavior under Section 37.007(b), (c), and (f).

(p) Makes a conforming change.

SECTION 12. Amends Section 37.012, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007, rather than on the basis of Section 37.007(a), (d), or (e), if the student is served by the juvenile justice alternative education program, to provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2), subject to Section 37.011(n).

(d) Provides that a school district school is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

SECTION 13. Amends Section 37.013, Education Code, to make conforming changes.

SECTION 14. Amends Sections 37.019(a) and (c), Education Code, as follows:

(a) Makes conforming changes.

(c) Requires the reason for emergency placement or expulsion to be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a non-emergency basis. Requires the student to be accorded the appropriate due process as required under Section 37.009, within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion. Provides that if the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability, rather than the requirements of 20 U.S.C. Section 1415(j) and (k).

SECTION 15. Amends Section 37.020, Education Code, as follows:

Sec. 37.020. New heading: **REPORTS RELATING TO EXPULSIONS AND DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM PLACEMENTS.** (a) Requires each school district, in the manner required by the commissioner, to annually report to the commissioner certain information required by this section. Makes conforming changes.

(c) Requires the district, for each expulsion under Section 37.007, to report certain information. Makes conforming changes.

SECTION 16. Amends Subchapter A, Chapter 37, [ Education Code is assumed but not stated] by adding Section 37.021, as follows:

Sec. 37.021. **IN-SCHOOL PLACEMENTS AND OTHER REMOVALS FROM REGULAR CLASSROOM.** (a) Requires a school district, if a school district removes a student from the regular classroom and places the student in in-school suspension or another setting for conduct that is not grounds for removal to a disciplinary alternative education program or expulsion, to provide the student with the opportunity to continue the course work from the student's regular classroom or courses during the term of the placement.

(b) Authorizes district to provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school. Prohibits the district from charging the student for a course provided under this section.

SECTION 17. Amends Section 37.121(b), Education Code, to make conforming changes.

SECTION 18. Amends Section 39.053(e), Education Code, to makes conforming change.

SECTION 19. Amends Section 39.073(e), Education Code, to require TEA, in determining a district accreditation rating, to take certain considerations including to the extent determined by the commissioner, the district's compliance with disciplinary alternative education program requirements under Subchapter A, Chapter 37.

SECTION 20. Amends Article 15.27(b), Code of Criminal Procedure, to require on conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case to orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Provides that an oral notification must be given within 24 hours of the time of the order, rather than determination of guilt, or on the next school day. Makes conforming changes.

SECTION 21. Amends Article 15.27(e)(2), Code of Criminal Procedure, to make a conforming change.

SECTION 22. Amends Article 15.27(g), Code of Criminal Procedure, to make a conforming change.

SECTION 23. Amends Section 164.006, Health and Safety Code, to prohibit a treatment facility or a person employed or under contract with a treatment facility, if acting on behalf of the treatment facility, from taking certain actions.

SECTION 24. Amends Section 464.020, Health and Safety Code, as follows:

Sec. 464.020. New heading: ADDITIONAL REQUIREMENTS FOR DISCIPLINARY ALTERNATIVE EDUCATION TREATMENT PROGRAMS. (a)-(d) Make conforming changes.

SECTION 25. Repealer: Section 37.006(c), Education Code (regarding removal for certain conduct).

Repealer: Section 37.010(b), Education Code (regarding court involvement).

SECTION 26. (a) Provides that this Act applies beginning with the 2003-2004 school year.

(b) Provides that the changes in law made by this Act relating to conduct for which a student may be removed to a disciplinary alternative education program or expelled apply to conduct that occurs on or after the effective date of this Act.

SECTION 27. Effective date: upon passage or September 1, 2003.