

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1548  
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Education  
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### **DIGEST AND PURPOSE**

Currently, Chapter 37, Education Code, governs student discipline in Texas, but under current law, administrators do not have sufficient flexibility in implementing certain aspects of student discipline. Extensive hearings for minor offenses can occur, certain serious criminal acts are not subject to mandatory expulsion, documentation requirements are excessive in certain circumstances, and jurisdiction of student misconduct is not aligned among different offenses. Teachers and administrators have raised concerns regarding the limitations of restraint and time-out, documentation and reporting requirements, and inability of parents to work with school personnel in designing individually based educational programs that are not in exact conformance with the established rules. Concerns have been raised regarding applicability of the law and rules to law enforcement personnel, security personnel, and court-ordered placements. Additionally, current law does not clearly provide that expelled students ages 17 or older are to be served in alternative education programs. As proposed, S.B. 1548 redefines “time-out;” requires reasonable documentation regarding the use of restraint and time-out, with a provision for a waiver; and exempts certain persons and certain circumstances from the restrictions regarding restraint and time-out. This bill also specifies behaviors that trigger suspension and expulsion and when alternative education programs are required.

### **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 Section 37.001(a), Education Code, to require the student code of conduct to be made available for review at the office of the campus principal, or posted and prominently displayed at each school campus.

SECTION 2. Amends the heading to Section 37.0021, Education Code, to read as follows:

Sec. 37.0021. USE OF CONFINEMENT, RESTRAINT, SECLUSION, AND TIME-OUT FOR STUDENT WITH DISABILITY.

SECTION 3. Amends Section 37.0021, Education Code, by amending Subsections (a) - (d) and adding Subsections (d-1) and (g), as follows:

(a) Provides that it is the policy of this state to treat all students with disabilities who receive special education services with dignity and respect. Makes a conforming change.

(b) Redefines “time-out.”

(c) Provides that this subsection does not apply to the use of seclusion in a court-ordered placement or in a placement or facility to which certain laws, rules, or regulations apply. Makes a conforming change.

(d) Requires the procedures to impose reasonable documentation and reporting requirements regarding use of restraint and time-out and to allow a parent or guardian to

waive in writing any reporting requirement that otherwise entitles the parent or guardian to notice of the use of restraint or time-out.

(d-1) Provides that Subsection (d) and any rules or procedures adopted under that subsection do not preclude a school district employee, volunteer, or other agent, or an independent contractor of a district, from using reasonable force in self-defense or to protect students or other persons from assault or other imminent, serious physical harm, or apply to restraint or time-out administered in accordance with a student's individualized education program (IEP) developed under Section 29.005 (Individualized Education Program), if the student's parent or guardian agrees to the provisions in the IEP that address the role, manner and use of restraint and time-out.

(g) Provides that this section and any rules or procedures adopted under this section do not apply to certain persons.

SECTION 4. Amends Section 37.003, Education Code, by adding Subsection (c) to provide that the placement review committee's placement determination regarding a student with a disability who receives special education services is subject to the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations, or state law relating to special education.

SECTION 5. Amends Section 37.005(a), Education Code, to authorize the principal or other appropriate administrator may suspend a student for any conduct identified in the student code of conduct, adopted under Section 37.001, as conduct for which a student to be suspended. Deletes text referring to placing a student in an alternative education program.

SECTION 6. Amends Sections 37.006 (a) - (d) and (1), Education Code, as follows:

(a) Includes the school bus stop as a place where certain actions can require a student to be placed in an alternative education program. Include in those certain actions, conduct that contains the elements of an offense relating to an abusable volatile chemical, rather than glue or aerosol paint, under Sections 485.031 (Possession and Use) through 485.034 (Failure to Post Sign), Health and Safety Code. Deletes text referring to 485.035 (Sale Without Permit) and Chapter 484 (Volatile Chemicals; repealed by the 77th Legislature, 2001), Health and Safety Code.

(b) Specifies that certain conduct engaged in by a student on or off school property requires that the student be removed from class and placed in an alternative education program under Section 37.008 (Alternative Education Programs), Education Code, except as provided by Section 37.007(d) (Expulsion for Serious Offenses), Education Code.

(c) Includes Subsection (b) as a reference.

(d) Includes Subsections (b) and (c) as a reference.

(1) Prohibits a student who is younger than six years of age from being removed from class and placed in an alternative program, notwithstanding any other provision of this code, other than Section 37.007(e)(2) (Expulsion for Serious Offenses), Education Code. Makes a conforming change.

SECTION 7. Amends Sections 37.007(a), (b), and (g), Education Code, as follows:

(a) Requires a student to be expelled from school if the student, on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while at a school bus stop or while attending a school sponsored or school-related activity on or off school property engages in certain activities, including manslaughter under Section 19.04 (Manslaughter), Penal Code, or criminally negligent homicide under Section 19.05 (Criminally Negligent Homicide), Penal Code.

(b) Includes in the list of actions for which a student can be expelled, conduct that contains the elements of the offense of deadly conduct under Section 22.05 (Deadly Conduct), Penal Code. Makes conforming changes.

(g) Requires a school district to inform each teacher who has regular contact with a student through a classroom assignment of the conduct of a student who has engaged in any violation listed in this section.

SECTION 8. Amends Section 37.009(a), Education Code, to provide that if a school district policy allows a student to appeal to the board of trustees, or the board's designee, a decision of the principal or other appropriate administrator, other than an expulsion under Section 37.007 (Expulsion for Serious Offenses), Education Code, the decision of the board, or the board's designee, is final and may not be appealed.

SECTION 9. Amends Section 37.011, Education Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires the juvenile court, the juvenile board, or the juvenile board's designee, as appropriate, if a student admitted into the public schools of a school district under Section 25.001(b) (Admission), Education Code, is expelled from school under Section 37.007 (a), (d), or (e) (Expulsion for Serious Offenses), Education Code, to provide educational services to the student in the juvenile justice alternative education program, in addition to other requirements. Makes nonsubstantive changes.

(b-1) Provides that for purposes of this chapter, a juvenile court or juvenile board, as appropriate, has jurisdiction and authority over each student, regardless of age, who is placed in a juvenile justice alternative education program.

SECTION 10. Repealer: Section 37.001(b) (Student Code of Conduct), Education Code.

SECTION 11. Provides that this Act applies beginning with the 2003-2004 school year.

SECTION 12. Effective date: upon passage or September 1, 2003.