

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1548
By: Janek
Education
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Committee Report (Substituted)

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. C.S.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 Section 37.0021, Education Code, by amending Subsections (a) - (d) and adding Subsection (g), as follows:

(a) Provides that it is the policy of this state to treat all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29 (Special Education Program), with dignity and respect. Makes a conforming change.

(b) Redefines “time-out” and “restraint.

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

(d) Makes a conforming change.

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

SECTION 3. 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 under Subchapter A, Chapter 29 (Special Education Program), 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 4. Amends Section 37.005(a), Education Code, to authorize the principal or other appropriate administrator to suspend a student who engages in conduct identified in the student code of conduct, adopted under Section 37.001, as conduct for which a student may be suspended. Deletes text referring to a student's placement in an alternative education program.

SECTION 5. Amends Sections 37.006 (b) - (d) and (l), Education Code, as follows:

(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.

(l) 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 6. 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 school property or while attending a school sponsored or school-related activity on or off school property engages in certain activities, including aggravated robbery under Section 29.03 (Aggravated Robbery), Penal Code, 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 while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity, conduct that contains the elements of the offense of deadly conduct under Section 22.05 (Deadly Conduct), Penal Code, or subject to Subsection (d) conduct specified by Subsection (a) or possesses a firearm, as defined by 18 U.S.C. Section 921.

(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 7. 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 8. Amends Subchapter A, Chapter 37, Education Code, by adding Section 37.0091, as follows:

Sec. 37.0091. NOTICE TO NONCUSTODIAL PARENT. (a) Authorizes a noncustodial parent to request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written

notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian.

(b) Prohibits a school district or school from unreasonably denying a request authorized by Subsection (a).

(c) Requires a school district or school to comply with any applicable court order of which the district or school has knowledge, notwithstanding any other provision of this section.

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 timely educational services to the student in the juvenile justice alternative education program in which the student resides regardless of the student's age or whether the juvenile court has jurisdiction over the student, in addition to other requirements. Makes nonsubstantive changes.

(b-1) Provides that Subsection (b)(4) does not require that educational services be provided to a student who is not entitled to admission into the public schools of a school district under Section 25.001(b).

SECTION. 10. Amends Section 37.015(a), Education Code, to include in the list of conduct that requires certain school officials to notify certain law enforcement entities, conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

SECTION 11. Repealer: Section 37.001(b) (Student Code of Conduct), Education Code.

SECTION 12. Provides that this Act applies beginning with the 2003-2004 school year.

SECTION 13. Effective date: upon passage or September 1, 2003.