

BILL ANALYSIS

Senate Research Center
79R7041 SLO-F

S.B. 1120
By: West, Royce
Education
4/27/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current Texas law requires a school district to expel a student if the school district has reasonable belief that the student is engaging in certain behavior. Many of the students are never prosecuted for the alleged behavior because there is no probable cause to believe the student engaged in the behavior. As a result, many expelled students remain in a juvenile justice alternative education program (JJAEP) regardless of the lack of probable cause.

As proposed, S.B. 1120 requires a prosecutor or juvenile probation department intake official to review the case of a student who was expelled for a mandatory expulsion offense under Section 37.007 (Expulsion for Serious Offenses), Education Code, and determine if probable cause existed. If the prosecutor or intake official finds that probable cause did not exist, notice of this fact is required to be sent to the school district that expelled the student.

S.B. 1120 also prohibits the Texas Juvenile Probation Commission from paying for an expelled student to be placed in a JJAEP program and prohibits the school district from placing the student in a district alternative education program if no probable cause existed to place the student in such a program.

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 37.010(a), Education Code, by requiring the board of trustees of a school district or the board's designee, except as provided by Section 37.0101, not later than the second business day after the date of a hearing is held under Section 37.009 (Conference; Hearing; Review), to deliver a copy of the order placing a student in a disciplinary alternative education program.

SECTION 2. Amends Subchapter A, Chapter 37, Education Code, by adding Sections 37.0101 and 37.0122, as follows:

Sec. 37.0101. PROSECUTORIAL REVIEW OF EXPULSION OFFENSE. (a) Requires a school district that expels a student for engaging in conduct for which expulsion is required under Section 37.007(a), (d), or (e), to notify the prosecuting attorney of the county in which the student resides of the expulsion if the student is at least 17 years of age at the time the student engaged in the conduct and is assigned to attend a juvenile justice alternative education program under Section 37.011 (Juvenile Justice Alternative Education Program).

(b) Requires the board of trustees of the school district or a person designated by the board to deliver to the prosecuting attorney a copy of the order expelling the student and any other information relevant to the alleged conduct not later than the second business day after the date of the expulsion hearing under Section 37.009.

(c) Requires the prosecuting attorney, no later than the fifth business day after receiving an expulsion notice under this section, to conduct a preliminary

investigation and make a determination as to whether probable cause exists to believe the student engaged in conduct for which expulsion is required under Section 37.007(a), (d), or (e). Requires the prosecuting attorney, no later than the second business day after conducting the preliminary investigation, to notify the school district and the administrator of the juvenile justice alternative education center of the prosecuting attorney's determination of whether probable cause exists to believe the student engaged in conduct for which expulsion is required under Section 37.007(a), (d), or (e).

Sec. 37.0122. FUNDING OF JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS FOR CERTAIN STUDENTS. (a) Provides that a school district that receives notice under Section 52.041 (Referral of Child to Juvenile Court After Expulsion), Family Code, or Section 37.0101 that no probable cause exists to believe that a student engaged in conduct for which expulsion is required under Section 37.007(a), (d), or (e) is responsible for paying the costs of the student to attend the juvenile justice alternative education program for a student described by this subsection.

(b) Authorizes the school district, notwithstanding Section 37.011(b), to elect to remove the student from the juvenile justice alternative education program if the district is responsible for paying the costs of the student attending the program under Subsection (a) and place the student in a disciplinary alternative education program or related program.

(c) Provides that if the school district removes the student from the juvenile justice alternative education program under Subsection (b), the district is responsible for paying the costs for each day of attendance before the removal.

SECTION 3. Makes application of this Act prospective to the 2005-2006 school year.

SECTION 4. Effective date: upon passage or September 1, 2005.