

## **BILL ANALYSIS**

Senate Research Center  
79R874 PAM-D

S.B. 126  
By: Lindsay  
Education  
3/8/2005  
As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

S.B. 126 is designed to give local school administrators flexibility when reviewing incidents where students may be expelled or sent to a juvenile justice alternative education program or a disciplinary alternative education program due to zero tolerance under the Safe Schools Act. This legislation is designed to allow for the student's intent or lack thereof to be considered when evaluating an incident.

As proposed, S.B. 126 amends various sections of Chapter 37 of the Education Code. This bill provides that the student code of conduct is not required to specify any particular minimum term of an alternative education placement or of an expulsion. This bill also prohibits a school district from punishing a student based on conduct that contains the elements of an offense under the Penal Code unless certain local administrators who are familiar with the incident review the conduct and determine that the student had the mental state required for that offense under the Penal Code.

### **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, Education Code, by adding Subsection (e) to provide that, except as provided by Section 37.007(e) (Expulsion for Serious Offenses), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 (Removal for Certain Conduct) or an expulsion under Section 37.007.

SECTION 2. Amends Subchapter A, Chapter 37, Education Code, by adding Section 37.0011, as follows:

Sec. 37.0011. CULPABLE MENTAL STATE REQUIRED. Prohibits a school district from punishing a student based on conduct that contains the elements of an offense under the Penal Code unless the principal, board of trustees, or other person authorized under Section 37.009 (Conference; Hearing; Review) to review the student's conduct reasonably believes that the student had the culpable mental state required for that offense under the Penal Code.

SECTION 3. Amends Section 37.007(a), Education Code, to specify that behavior that requires expulsion from school includes the intentional, knowing, or reckless use, exhibition, or possession, rather than merely the use, exhibition, or possession of certain weapons. Makes a conforming change.

SECTION 4. Provides that this Act applies to punishment or expulsion regardless of when the conduct occurred.

SECTION 5. Effective date: upon passage or September 1, 2005.