

## **BILL ANALYSIS**

Senate Research Center  
85R23027 PAM-D

H.B. 156  
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Education  
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Engrossed

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

A student who is placed in an alternative education program due to disciplinary issues suffers disruptions in the student's education progress and achievement and exclusion from meaningful interaction with peers. By creating a pilot program that allows students who are subject to placement in disciplinary or juvenile justice alternative education programs to instead receive appropriate discipline and instruction through the Junior Reserve Officers' Training Corps (JROTC) program, students would be able to remain in their regular classes with their peers. Not only would this minimally disruptive solution to disciplinary problems be cost beneficial for school districts, but it also would improve student outcomes by keeping students on track to graduate.

H.B. 156 establishes a pilot program for placement of high school students in JROTC programs as an alternative to placement in disciplinary alternative education programs (DAEP) or juvenile justice alternative education programs (JJAEP). The pilot program would be restricted to Webb County and would not be implemented in more than two high schools where a JROTC program already exists. Placement of students in this alternative track would be determined by the participating schools, but students who are subject to expulsion or in-school suspensions would not be eligible for this alternative placement. Students in this pilot JROTC program would continue to attend regularly assigned classes, although their schedules could be modified to accommodate JROTC participation.

H.B. 156 amends current law relating to establishing a pilot program in designated public high schools in certain municipalities for placement of students in Junior Reserve Officers' Training Corps programs as an alternative to placement in disciplinary or juvenile justice alternative education programs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 1 (Section 37.031, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 37, Education Code, by adding Subchapter A-1, as follows:

#### **SUBCHAPTER A-1. PILOT PROGRAM IN DESIGNATED HIGH SCHOOLS IN CERTAIN MUNICIPALITIES FOR ALTERNATIVE DISCIPLINARY PLACEMENT: JUNIOR RESERVE OFFICERS' TRAINING CORPS (JROTC)**

Sec. 37.031. ESTABLISHMENT OF PILOT PROGRAM. (a) Provides that a pilot program is established under this subchapter for placement of high school students in Junior Reserve Officers' Training Corps (JROTC) programs as an alternative, in accordance with Section 37.032, to placement in disciplinary alternative education programs (DAEP) or juvenile justice alternative education programs (JJAEP).

(b) Provides that the pilot program applies only to a student enrolled in a certain high school.

(c) Requires the Texas Education Agency (TEA), to designate not more than two high schools that are located in a municipality described by Subsection (b)(1) (relating to providing that the pilot program applies only to a student enrolled in a high school located in a certain municipality) and that offer JROTC programs to participate in the pilot program. Requires the commissioner of education (commissioner) by rule to adopt additional criteria that promote positive student educational outcomes for TEA to use in making designations under this subchapter.

(d) Provides that the application of this subchapter to a student enrolled in a high school located in a municipality described by Subsection (b)(1) is not affected if, after the high school is designated under Subsection (c), the high school graduation rate in the municipality changes and the municipality no longer meets the requirements of Subsection (b)(1)(C) (relating to providing that a pilot program applies only to a student enrolled in a high school located in a municipality that has more than 20 percent of the population 18 to 24 years of age who have not graduated from high school).

Sec. 37.032. PARTICIPATION REQUIREMENTS AND EXCEPTIONS. (a) Authorizes a student subject to this subchapter who is otherwise required or permitted under Subchapter A (Alternative Settings for Behavior Management) to be placed in an DAEP or JJAEP, notwithstanding any other provision of Subchapter A and except as provided by Subsection (c), to, instead of that placement, be required to participate in a JROTC program if the student meets the initial eligibility requirements for the program and the student's parent or guardian consents to the student's placement in the program.

(b) Requires a student required to participate in a JROTC program as authorized under this subchapter to continue to attend the student's regularly assigned classes, except that the student's schedule is authorized to be modified to the extent necessary to provide for required attendance in the program.

(c) Provides that this subchapter does not apply if:

(1) the student is removed from class and placed into another appropriate classroom or into in-school suspension under Section 37.002 (Removal by Teacher) or is suspended under Section 37.005 (Suspension);

(2) the student engages in conduct described by Section 37.006(a)(2)(B) (relating to expulsion for assault) or Section 37.007(a)(2) (relating to requiring a student to be expelled if the student engages in certain conduct) or (b)(2)(C) (relating to authorizing a student to be expelled if the student is within a certain amount of feet from school property and engages in certain conduct against a school district employee or volunteer);

(3) the continued presence of the student in the regular classroom threatens the safety of other students or teachers; or

(4) the student engages in conduct for which the student is required to be expelled from the student's regular campus under federal law.

Sec. 37.033. STUDENT CODE OF CONDUCT. (a) Requires the student code of conduct for a school district that includes a school designated under Section 37.031(c), in addition to the requirements for the student code of conduct under Section 37.001 (Student Code of Conduct), consistent with this subchapter and as applied to the designated school:

(1) specify conditions that authorize a principal or other appropriate administrator to require a student to participate in a JROTC program, including the condition that the student's parent or guardian is required to consent to the student's placement in the program;

(2) specify that consideration will be given, as a factor in each decision concerning participation in a JROTC program, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(3) provide guidelines that promote positive student educational outcomes for determining placement in a JROTC program as an alternative to placement in a DAEP or JJAEP;

(4) provide guidelines for setting the length of a term of required participation in a JROTC program; and

(5) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that requires the consent of the student's parent or guardian for the student to be placed in a JROTC program as an alternative to placement in a DAEP or a JJAEP.

(b) Provides that this section does not require the student code of conduct to specify a minimum term of required participation in a JROTC program.

Sec. 37.034. DETERMINATION REGARDING CERTAIN CONDUCT. Provides that Section 37.006(e) (relating to authorizing the superintendent or the superintendent's designee to determine whether there is a reasonable belief that a student has engaged in certain conduct defined as a felony offense to consider all available information) applies to this subchapter.

Sec. 37.035. NOTICE TO PARENTS. (a) Requires the school district, before a student may be required to participate in a JROTC program as authorized under this subchapter, to notify the student's parent or guardian of the student's proposed placement and request and obtain consent for the student's placement in the program. Requires the notice to include the reason for the proposed placement.

(b) 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 the student's placement as authorized under this subchapter that is generally provided by the district or school to a student's parent or guardian.

Sec. 37.036. TERM OF PLACEMENT. Requires the board of trustees of the school district or the board's designee to set a term for a student's required participation in a JROTC program as authorized under this subchapter. Requires the term to be for a period consistent with the guidelines adopted under the student code of conduct in accordance with Section 37.033(a)(4). Requires that if the period of placement is inconsistent with the guidelines adopted under the student code of conduct, the notice under Section 37.035(a) provide an explanation of the inconsistency.

(b) Requires the board of trustees or the board's designee, before a student may be required to participate in a JROTC program as authorized under this subchapter for a period that extends beyond the end of a school year, to determine that the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct. Prohibits the period of required participation from

exceeding one year unless, after review, the board or the board's designee determines that extended placement is in the best interest of the student.

Sec. 37.037. NOTICE TO EDUCATORS. (a) Requires the board of trustees of the school district to inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who is required to participate in a JROTC program as authorized under this subchapter.

(b) Requires each educator to keep the information received under this section confidential from any person not entitled to the information under this section, except that the educator is authorized to share the information with the student's parent or guardian as provided for by state or federal law.

(c) Authorizes the State Board for Educator Certification to revoke or suspend the certification of an educator who intentionally violates this section or Section 37.038.

Sec. 37.038. TRANSFER OF STUDENT UNDER PILOT PROGRAM. (a) Requires the board of trustees of the school district requiring the participation, if a student required to participate in a JROTC program as authorized under this subchapter enrolls in another school district before the expiration of the period of required participation, to provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. Requires that the district in which the student enrolls inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order.

(b) Requires each educator to keep the information received under this section confidential from any person not entitled to the information under this section, except that the educator is authorized to share the information with the student's parent or guardian as provided for by state or federal law.

(c) Authorizes the school district in which the student enrolls, subject to Subsection (d), to continue JROTC program placement under the terms of the order or to allow the student to attend regular classes without completing the period of required participation.

(d) Authorizes the student, if the school the student attends in the school district in which the student enrolls does not offer a JROTC program, to be placed in a DAEP or a JJAEP under the procedures provided by this subchapter for the remainder of the term set under Section 37.036.

Sec. 37.039. PROCEDURE FOR ADDRESSING SUBSEQUENT CONDUCT AFTER PROGRAM PARTICIPATION. Provides that a student required to participate in a JROTC program as authorized under this subchapter is subject to the provisions of Subchapter A relating to removal from class and placement in a DAEP or JJAEP if the student, after completion of any required participation in a JROTC program as authorized under this subchapter, engages in subsequent conduct requiring or permitting the student to be removed from class and placed in a DAEP or JJAEP under Subchapter A.

Sec. 37.040. APPLICABILITY TO SUBCHAPTER A. Provides that Sections 37.002, 37.006 (Removal for Certain Conduct), and 37.007 (Expulsion for Serious Offenses) are subject to this subchapter.

Sec. 37.041. REVIEW OF PROGRAM; REPORT. Requires the commissioner, not later than January 1, 2019, to review the pilot program established under this subchapter and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report regarding the progress made by the pilot program in improving student educational outcomes.

Sec. 37.042. EXPIRATION. Provides that this subchapter expires September 1, 2019.

SECTION 2. Amends Section 37.020, Education Code, by adding Subsections (d) and (e), as follows:

(d) Requires the district for each placement in a JROTC program under Subchapter A-1, to report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;

(2) information indicating whether the placement was based on certain conduct;

(3) the number of full or partial days the student was assigned to the program and the number of full or partial days the student attend the program;

(4) the number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.033(a)(4);

(5) information regarding the academic performance of the student on assessment instruments required under Section 39.023 (Adoption and Administration of Instruments), as applicable, during the year preceding, during the year of, and during the year following placement in the program, to the extent available; and

(6) information indicating whether the student dropped out of school, to the extent available.

(e) Provides that Subsection (d) and this subsection expire September 1, 2019.

SECTION 3. (a) Requires the commissioner, not later than December 1, 2017, to adopt rules for TEA to use to designate public high schools to participate in the pilot program established under Subchapter A-1, Chapter 37 (Discipline; Law and Order), Education Code, as added by this Act.

(b) Requires TEA, not later than January 1, 2018, to designate not more than two public high schools to participate in the pilot program established under Subchapter A-1, Chapter 37, Education Code, as added by this Act.

(c) Requires the pilot program established under Subchapter A-1, Chapter 37, Education Code, as added by this Act, to be implemented in each high school designated under that subchapter beginning with the spring semester of the 2017-2018 school year.

SECTION 4. Effective date: upon passage or September 1, 2017.