

By: Allen, Garcia, Wu

H.B. No. 4606

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation of a juvenile justice alternative
3 education program by a county department of education.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 37.0081(a-1), Education Code, is amended
6 to read as follows:

7 (a-1) The student must be placed in:

8 (1) a juvenile justice alternative education program,
9 if the school district is located in a county that operates a
10 juvenile justice alternative education program or the school
11 district contracts with the juvenile board or county department of
12 education of another county for the provision of a juvenile justice
13 alternative education program; or

14 (2) a disciplinary alternative education program.

15 SECTION 2. Sections 37.010(c) and (d), Education Code, are
16 amended to read as follows:

17 (c) Unless the juvenile board or the county department of
18 education for the county in which the district's central
19 administrative office is located has entered into a memorandum of
20 understanding with the district's board of trustees concerning the
21 juvenile probation department's or the county department of
22 education's role in supervising and providing other support
23 services for students in disciplinary alternative education
24 programs, a court may not order a student expelled under Section

1 37.007 to attend a regular classroom, a regular campus, or a school
2 district disciplinary alternative education program as a condition
3 of probation.

4 (d) Unless the juvenile board or county department of
5 education for the county in which the district's central
6 administrative office is located has entered into a memorandum of
7 understanding as described by Subsection (c), if a court orders a
8 student to attend a disciplinary alternative education program as a
9 condition of probation once during a school year and the student is
10 referred to juvenile court again during that school year, the
11 juvenile court may not order the student to attend a disciplinary
12 alternative education program in a district without the district's
13 consent until the student has successfully completed any sentencing
14 requirements the court imposes.

15 SECTION 3. Section 37.011, Education Code, is amended by
16 amending Subsections (a), (d), (e), (h), (j), (k), (l), (m), (n),
17 (p), and (q) and adding Subsections (a-6) and (a-7) to read as
18 follows:

19 (a) Subject to Subsection (a-6), the [The] juvenile board or
20 the county department of education of a county with a population
21 greater than 125,000 shall develop a juvenile justice alternative
22 education program, subject to the approval of the Texas Juvenile
23 Justice Department. The juvenile board of a county with a
24 population of 125,000 or less may develop a juvenile justice
25 alternative education program. For the purposes of this
26 subchapter, only a disciplinary alternative education program
27 operated under the authority of a juvenile board or the county

1 department of education of a county is considered a juvenile
2 justice alternative education program. A juvenile justice
3 alternative education program in a county with a population of
4 125,000 or less:

5 (1) is not required to be approved by the Texas
6 Juvenile Justice Department [~~department~~]; and

7 (2) is not subject to Subsection (c), (d), (f), or (g).

8 (a-6) Beginning with the 2024-2025 school year, if a county
9 with a population greater than three million has a county
10 department of education under Subsection (a-7), the department
11 shall develop the juvenile justice alternative education program
12 under Subsection (a) in lieu of the juvenile board.

13 (a-7) For the purposes of this section, a county has a
14 county department of education if a school district or a county
15 system within the county is operating under former law, in
16 accordance with Section 11.301(a).

17 (d) A juvenile justice alternative education program must
18 focus on English language arts, mathematics, science, social
19 studies, and self-discipline. Each school district shall consider
20 course credit earned by a student while in a juvenile justice
21 alternative education program as credit earned in a district
22 school. Each program shall administer assessment instruments under
23 Subchapter B, Chapter 39, and shall offer a high school equivalency
24 program. The juvenile board, the county department of education,
25 or the [board's] designee of the board or department, as
26 applicable, with the parent or guardian of each student, shall
27 regularly review the student's academic progress. In the case of a

1 high school student, the board, the department, or the ~~[board's]~~
2 designee of the board or department, as applicable, with the
3 student's parent or guardian, shall review the student's progress
4 towards meeting high school graduation requirements and shall
5 establish a specific graduation plan for the student. The program
6 is not required to provide a course necessary to fulfill a student's
7 high school graduation requirements other than a course specified
8 by this subsection.

9 (e) A juvenile justice alternative education program may be
10 provided in a facility owned by a school district. A school
11 district may provide personnel and services for a juvenile justice
12 alternative education program under a contract with the juvenile
13 board or the county department of education, as applicable.

14 (h) Academically, the mission of juvenile justice
15 alternative education programs shall be to enable students to
16 perform at grade level. For purposes of accountability under
17 Chapters 39 and 39A, a student enrolled in a juvenile justice
18 alternative education program is reported as if the student were
19 enrolled at the student's assigned campus in the student's
20 regularly assigned education program, including a special
21 education program. Annually the Texas Juvenile Justice Department,
22 with the agreement of the commissioner, shall develop and implement
23 a system of accountability consistent with Chapters 39 and 39A,
24 where appropriate, to assure that students make progress toward
25 grade level while attending a juvenile justice alternative
26 education program. The department shall adopt rules for the
27 distribution of funds appropriated under this section to the

1 entities responsible for operating juvenile justice alternative
2 education programs [~~juvenile boards~~] in the counties required to
3 establish those [~~juvenile justice alternative education~~]
4 programs. Except as determined by the commissioner, a student
5 served by a juvenile justice alternative education program on the
6 basis of an expulsion required under Section 37.007(a), (d), or (e)
7 is not eligible for Foundation School Program funding under Chapter
8 31 or 48 if the juvenile justice alternative education program
9 receives funding from the department under this subchapter.

10 (j) In relation to the development and operation of a
11 juvenile justice alternative education program, a juvenile board, a
12 county department of education, [~~and~~] a county, and a commissioner's
13 court of a county are immune from liability to the same extent as a
14 school district, and the juvenile board's, department's, or
15 county's [~~professional~~] employees and volunteers are immune from
16 liability to the same extent as a school district's [~~professional~~]
17 employees and volunteers.

18 (k) Each school district in a county with a population
19 greater than 125,000 and the county juvenile board or the county
20 department of education, as applicable, shall annually enter into a
21 joint memorandum of understanding that:

22 (1) outlines the responsibilities of the juvenile
23 board or county department of education concerning the
24 establishment and operation of a juvenile justice alternative
25 education program under this section;

26 (2) defines the amount and conditions on payments from
27 the school district to the juvenile board or county department of

1 education for students of the school district served in the
2 juvenile justice alternative education program whose placement was
3 not made on the basis of an expulsion required under Section
4 37.007(a), (d), or (e);

5 (3) establishes that a student may be placed in the
6 juvenile justice alternative education program if the student
7 engages in serious misbehavior, as defined by Section 37.007(c);

8 (4) identifies and requires a timely placement and
9 specifies a term of placement for expelled students for whom the
10 school district has received a notice under Section 52.041(d),
11 Family Code;

12 (5) establishes services for the transitioning of
13 expelled students to the school district prior to the completion of
14 the student's placement in the juvenile justice alternative
15 education program;

16 (6) establishes a plan that provides transportation
17 services for students placed in the juvenile justice alternative
18 education program;

19 (7) establishes the circumstances and conditions
20 under which a juvenile may be allowed to remain in the juvenile
21 justice alternative education program setting once the juvenile is
22 no longer under juvenile court jurisdiction; and

23 (8) establishes a plan to address special education
24 services required by law.

25 (1) The school district shall be responsible for providing
26 an immediate educational program to students who engage in behavior
27 resulting in expulsion under Section 37.007(b) and (f) but who are

1 not eligible for admission into the juvenile justice alternative
2 education program in accordance with the memorandum of
3 understanding required under this section. The school district may
4 provide the program or the school district may contract with a
5 county juvenile board, a county department of education, a private
6 provider, or one or more other school districts to provide the
7 program. The memorandum of understanding shall address the
8 circumstances under which such students who continue to engage in
9 serious misbehavior, as defined by Section 37.007(c), shall be
10 admitted into the juvenile justice alternative education program.

11 (m) Each school district in a county with a population
12 greater than 125,000 and the county juvenile board or the county
13 department of education, as applicable, shall adopt a joint
14 memorandum of understanding as required by this section not later
15 than September 1 of each school year.

16 (n) If a student who is ordered to attend a juvenile justice
17 alternative education program moves from one county to another, the
18 juvenile court may request the juvenile justice alternative
19 education program in the county to which the student moves to
20 provide educational services to the student in accordance with the
21 local memorandum of understanding between the school district and
22 the juvenile board or county department of education in the
23 receiving county.

24 (p) If a district elects to contract with the juvenile board
25 or county department of education for placement in the juvenile
26 justice alternative education program of students expelled under
27 Section 37.007(b), (c), and (f) and the juvenile board or county

1 department of education and the district are unable to reach an
2 agreement in the memorandum of understanding, either party may
3 request that the issues of dispute be referred to a binding
4 arbitration process that uses a qualified alternative dispute
5 resolution arbitrator in which each party will pay its pro rata
6 share of the arbitration costs. Each party must submit its final
7 proposal to the arbitrator. If the parties cannot agree on an
8 arbitrator, the juvenile board or county department of education
9 shall select an arbitrator, the school districts shall select an
10 arbitrator, and those two arbitrators shall select an arbitrator
11 who will decide the issues in dispute. An arbitration decision
12 issued under this subsection is enforceable in a court in the county
13 in which the juvenile justice alternative education program is
14 located. Any decision by an arbitrator concerning the amount of the
15 funding for a student who is expelled and attending a juvenile
16 justice alternative education program must provide an amount
17 sufficient based on operation of the juvenile justice alternative
18 education program in accordance with this chapter. In determining
19 the amount to be paid by a school district for an expelled student
20 enrolled in a juvenile justice alternative education program, the
21 arbitrator shall consider the relevant factors, including evidence
22 of:

23 (1) the actual average total per student expenditure
24 in the district's alternative education setting;

25 (2) the expected per student cost in the juvenile
26 justice alternative education program as described and agreed on in
27 the memorandum of understanding and in compliance with this

1 chapter; and

2 (3) the costs necessary to achieve the accountability
3 goals under this chapter.

4 (q) In accordance with rules adopted by the board of
5 trustees for the Teacher Retirement System of Texas, a certified
6 educator employed by a juvenile board or the county department of
7 education in a juvenile justice alternative education program shall
8 be eligible for membership and participation in the system to the
9 same extent that an employee of a public school district is
10 eligible. The juvenile board or county department of education, as
11 applicable, shall make any contribution that otherwise would be the
12 responsibility of the school district if the person were employed
13 by the school district, and the state shall make any contribution to
14 the same extent as if the person were employed by a school district.

15 SECTION 4. Sections 37.012(a) and (d), Education Code, are
16 amended to read as follows:

17 (a) Subject to Section 37.011(n), the school district in
18 which a student is enrolled on the date the student is expelled for
19 conduct for which expulsion is permitted but not required under
20 Section 37.007 shall, if the student is served by the juvenile
21 justice alternative education program, provide funding to the
22 juvenile board or county department of education, as applicable,
23 for the portion of the school year for which the juvenile justice
24 alternative education program provides educational services in an
25 amount determined by the memorandum of understanding under Section
26 37.011(k)(2).

27 (d) A school district is not required to provide funding to

1 a juvenile board or a county department of education for a student
2 who is assigned by a court to a juvenile justice alternative
3 education program but who has not been expelled.

4 SECTION 5. Section 37.309(b), Education Code, is amended to
5 read as follows:

6 (b) A school district shall place a student who is required
7 by the board of trustees to attend an alternative education program
8 under this subchapter in a juvenile justice alternative education
9 program if:

10 (1) the memorandum of understanding entered into
11 between the school district and the juvenile board or county
12 department of education under Section 37.011(k) provides for the
13 placement of students to whom this subchapter applies in the
14 juvenile justice alternative education program; or

15 (2) a court orders the placement of the student in a
16 juvenile justice alternative education program.

17 SECTION 6. Section 37.011(o), Education Code, is repealed.

18 SECTION 7. This Act applies beginning with the 2024-2025
19 school year.

20 SECTION 8. This Act takes effect September 1, 2023.