

By: Allen

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 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. Section 37.010(c) and (d), Education Code, are
16 amended to read as follows:

17 (c) Unless the juvenile board or the department of education
18 for the county in which the district's central administrative
19 office is located has entered into a memorandum of understanding
20 with the district's board of trustees concerning the juvenile
21 probation department's or the education department's role in
22 supervising and providing other support services for students in
23 disciplinary alternative education programs, a court may not order
24 a student expelled under Section 37.007 to attend a regular

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

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

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

17 (a-6) The juvenile board of a county that has a population
18 greater than 125,000 and that has a county department of education
19 shall contract with the county department of education to allow
20 that department to operate a juvenile justice alternative education
21 program in a manner that is consistent with this section.

22 (d) A juvenile justice alternative education program must
23 focus on English language arts, mathematics, science, social
24 studies, and self-discipline. Each school district shall consider
25 course credit earned by a student while in a juvenile justice
26 alternative education program as credit earned in a district
27 school. Each program shall administer assessment instruments under

1 Subchapter B, Chapter 39, and shall offer a high school equivalency
2 program. The juvenile board, the county department of education,
3 or the ~~[board's]~~ designee of the board or department, as
4 applicable, with the parent or guardian of each student, shall
5 regularly review the student's academic progress. In the case of a
6 high school student, the board, the department, or the ~~[board's]~~
7 designee of the board or department, as applicable, with the
8 student's parent or guardian, shall review the student's progress
9 towards meeting high school graduation requirements and shall
10 establish a specific graduation plan for the student. The program
11 is not required to provide a course necessary to fulfill a student's
12 high school graduation requirements other than a course specified
13 by this subsection.

14 (e) A juvenile justice alternative education program may be
15 provided in a facility owned by a school district. A school
16 district may provide personnel and services for a juvenile justice
17 alternative education program under a contract with the juvenile
18 board or the county department of education, as applicable.

19 (h) Academically, the mission of juvenile justice
20 alternative education programs shall be to enable students to
21 perform at grade level. For purposes of accountability under
22 Chapters 39 and 39A, a student enrolled in a juvenile justice
23 alternative education program is reported as if the student were
24 enrolled at the student's assigned campus in the student's
25 regularly assigned education program, including a special
26 education program. Annually the Texas Juvenile Justice Department,
27 with the agreement of the commissioner, shall develop and implement

1 a system of accountability consistent with Chapters 39 and 39A,
2 where appropriate, to assure that students make progress toward
3 grade level while attending a juvenile justice alternative
4 education program. The department shall adopt rules for the
5 distribution of funds appropriated under this section to the
6 entities responsible for operating juvenile justice alternative
7 education programs [~~juvenile boards~~] in the counties required to
8 establish those [~~juvenile justice alternative education~~]
9 programs. Except as determined by the commissioner, a student
10 served by a juvenile justice alternative education program on the
11 basis of an expulsion required under Section 37.007(a), (d), or (e)
12 is not eligible for Foundation School Program funding under Chapter
13 31 or 48 if the juvenile justice alternative education program
14 receives funding from the department under this subchapter.

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

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

27 (1) outlines the responsibilities of the juvenile

1 board or department of education concerning the establishment and
2 operation of a juvenile justice alternative education program under
3 this section;

4 (2) defines the amount and conditions on payments from
5 the school district to the juvenile board or department of
6 education for students of the school district served in the
7 juvenile justice alternative education program whose placement was
8 not made on the basis of an expulsion required under Section
9 37.007(a), (d), or (e);

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

13 (4) identifies and requires a timely placement and
14 specifies a term of placement for expelled students for whom the
15 school district has received a notice under Section 52.041(d),
16 Family Code;

17 (5) establishes services for the transitioning of
18 expelled students to the school district prior to the completion of
19 the student's placement in the juvenile justice alternative
20 education program;

21 (6) establishes a plan that provides transportation
22 services for students placed in the juvenile justice alternative
23 education program;

24 (7) establishes the circumstances and conditions
25 under which a juvenile may be allowed to remain in the juvenile
26 justice alternative education program setting once the juvenile is
27 no longer under juvenile court jurisdiction; and

1 (8) establishes a plan to address special education
2 services required by law.

3 (1) The school district shall be responsible for providing
4 an immediate educational program to students who engage in behavior
5 resulting in expulsion under Section 37.007(b) and (f) but who are
6 not eligible for admission into the juvenile justice alternative
7 education program in accordance with the memorandum of
8 understanding required under this section. The school district may
9 provide the program or the school district may contract with a
10 county juvenile board, a county department of education, a private
11 provider, or one or more other school districts to provide the
12 program. The memorandum of understanding shall address the
13 circumstances under which such students who continue to engage in
14 serious misbehavior, as defined by Section 37.007(c), shall be
15 admitted into the juvenile justice alternative education program.

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

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

1 receiving county.

2 (p) If a district elects to contract with the juvenile board
3 or county department of education for placement in the juvenile
4 justice alternative education program of students expelled under
5 Section 37.007(b), (c), and (f) and the juvenile board or
6 department of education and the district are unable to reach an
7 agreement in the memorandum of understanding, either party may
8 request that the issues of dispute be referred to a binding
9 arbitration process that uses a qualified alternative dispute
10 resolution arbitrator in which each party will pay its pro rata
11 share of the arbitration costs. Each party must submit its final
12 proposal to the arbitrator. If the parties cannot agree on an
13 arbitrator, the juvenile board or department of education shall
14 select an arbitrator, the school districts shall select an
15 arbitrator, and those two arbitrators shall select an arbitrator
16 who will decide the issues in dispute. An arbitration decision
17 issued under this subsection is enforceable in a court in the county
18 in which the juvenile justice alternative education program is
19 located. Any decision by an arbitrator concerning the amount of the
20 funding for a student who is expelled and attending a juvenile
21 justice alternative education program must provide an amount
22 sufficient based on operation of the juvenile justice alternative
23 education program in accordance with this chapter. In determining
24 the amount to be paid by a school district for an expelled student
25 enrolled in a juvenile justice alternative education program, the
26 arbitrator shall consider the relevant factors, including evidence
27 of:

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

3 (2) the expected per student cost in the juvenile
4 justice alternative education program as described and agreed on in
5 the memorandum of understanding and in compliance with this
6 chapter; and

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

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

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

22 (a) Subject to Section 37.011(n), the school district in
23 which a student is enrolled on the date the student is expelled for
24 conduct for which expulsion is permitted but not required under
25 Section 37.007 shall, if the student is served by the juvenile
26 justice alternative education program, provide funding to the
27 juvenile board or county department of education, as applicable,

1 for the portion of the school year for which the juvenile justice
2 alternative education program provides educational services in an
3 amount determined by the memorandum of understanding under Section
4 37.011(k)(2).

5 (d) A school district is not required to provide funding to
6 a juvenile board or a county department of education for a student
7 who is assigned by a court to a juvenile justice alternative
8 education program but who has not been expelled.

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

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

15 (1) the memorandum of understanding entered into
16 between the school district and the juvenile board or county
17 department of education under Section 37.011(k) provides for the
18 placement of students to whom this subchapter applies in the
19 juvenile justice alternative education program; or

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

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

23 SECTION 7. The juvenile board of a county to which Section
24 37.011(a-6), Education Code, as added by this Act, applies shall
25 enter into the contract required by that subsection not later than
26 September 1, 2024.

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