

1-1 By: Creighton S.B. No. 2428
 1-2 (In the Senate - Filed March 10, 2023; March 23, 2023, read
 1-3 first time and referred to Committee on Education; May 1, 2023,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 13, Nays 0; May 1, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Creighton	X			
1-8 Campbell	X			
1-9 Bettencourt	X			
1-10 Birdwell	X			
1-11 Flores	X			
1-12 King	X			
1-13 LaMantia	X			
1-14 Menéndez	X			
1-15 Middleton	X			
1-16 Parker	X			
1-17 Paxton	X			
1-18 Springer	X			
1-19 West	X			

1-21 COMMITTEE SUBSTITUTE FOR S.B. No. 2428 By: Parker

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to the removal of a public school student from the
 1-25 classroom for the possession or use of an e-cigarette.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 37.006, Education Code, is amended by
 1-28 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
 1-29 read as follows:

1-30 (a) A student shall be removed from class and placed in a
 1-31 disciplinary alternative education program as provided by Section
 1-32 37.008 if the student:

1-33 (1) engages in conduct involving a public school that
 1-34 contains the elements of the offense of false alarm or report under
 1-35 Section 42.06, Penal Code, or terroristic threat under Section
 1-36 22.07, Penal Code; or

1-37 (2) subject to Subsections (a-1) and (a-2), commits
 1-38 the following on or within 300 feet of school property, as measured
 1-39 from any point on the school's real property boundary line, or while
 1-40 attending a school-sponsored or school-related activity on or off
 1-41 of school property:

1-42 (A) engages in conduct punishable as a felony;

1-43 (B) engages in conduct that contains the elements
 1-44 of the offense of assault under Section 22.01(a)(1), Penal Code;

1-45 (C) sells, gives, or delivers to another person
 1-46 or possesses or uses or is under the influence of:

1-47 (i) marihuana or a controlled substance, as
 1-48 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
 1-49 Section 801 et seq.; or

1-50 (ii) a dangerous drug, as defined by
 1-51 Chapter 483, Health and Safety Code;

1-52 (D) sells, gives, or delivers to another person
 1-53 an alcoholic beverage, as defined by Section 1.04, Alcoholic
 1-54 Beverage Code, commits a serious act or offense while under the
 1-55 influence of alcohol, or possesses, uses, or is under the influence
 1-56 of an alcoholic beverage;

1-57 (E) engages in conduct that contains the elements
 1-58 of an offense relating to an abusable volatile chemical under
 1-59 Sections 485.031 through 485.034, Health and Safety Code;

1-60 (F) engages in conduct that contains the elements

2-1 of the offense of public lewdness under Section 21.07, Penal Code,
2-2 or indecent exposure under Section 21.08, Penal Code; or

2-3 (G) engages in conduct that contains the elements
2-4 of the offense of harassment under Section 42.07(a)(1), (2), (3),
2-5 or (7), Penal Code, against an employee of the school district.

2-6 (a-1) If a disciplinary alternative education program is at
2-7 capacity at the time a student is required to be removed from class
2-8 and placed in the program under Subsection (a) for possession or use
2-9 of an e-cigarette, as defined by Section 161.081, Health and Safety
2-10 Code, and school personnel cannot readily determine that the
2-11 e-cigarette contains a substance described by Subsection
2-12 (a)(2)(C), the student shall be:

2-13 (1) placed in in-school suspension; and

2-14 (2) if a position becomes available in the program
2-15 before the expiration of the period of the placement, transferred
2-16 to the program for the remainder of the period.

2-17 (a-2) If a disciplinary alternative education program is at
2-18 capacity at the time a student is required to be removed from class
2-19 and placed in the program under Subsection (a) for engaging in
2-20 violent conduct, as defined by commissioner rule, a student who has
2-21 been removed to the program for possession or use of an e-cigarette,
2-22 as defined by Section 161.081, Health and Safety Code:

2-23 (1) may be removed from the program and placed in
2-24 in-school suspension to make a position in the program available
2-25 for the student who engaged in violent conduct; and

2-26 (2) if removed from the program under Subdivision (1)
2-27 and a position in the program becomes available before the
2-28 expiration of the period of the placement, shall be returned to the
2-29 program for the remainder of the period.

2-30 SECTION 2. Subchapter A, Chapter 37, Education Code, is
2-31 amended by adding Section 37.0065 to read as follows:

2-32 Sec. 37.0065. E-CIGARETTE EDUCATION REQUIREMENT. (a) In
2-33 this section, "e-cigarette" has the meaning assigned by Section
2-34 161.081, Health and Safety Code.

2-35 (b) The agency shall develop a program to educate students
2-36 required to be removed from class and placed in a disciplinary
2-37 alternative education program or in in-school suspension under
2-38 Section 37.006 for possession or use of an e-cigarette about the
2-39 risks of substance abuse and use of e-cigarettes. The program may be
2-40 provided in person or online and must include an end-of-course
2-41 assessment.

2-42 (c) A student described by Subsection (b) must complete the
2-43 program developed under that subsection and achieve a satisfactory
2-44 score on the end-of-course assessment before the student may return
2-45 to class.

2-46 SECTION 3. This Act applies beginning with the 2023-2024
2-47 school year.

2-48 SECTION 4. This Act takes effect immediately if it receives
2-49 a vote of two-thirds of all the members elected to each house, as
2-50 provided by Section 39, Article III, Texas Constitution. If this
2-51 Act does not receive the vote necessary for immediate effect, this
2-52 Act takes effect September 1, 2023.

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