

BILL ANALYSIS

C.S.H.B. 2532
By: Patrick
Public Education
Committee Report (Substituted)

Note: Unless otherwise specified, statutory references in this Bill Analysis are to the Education Code.

BACKGROUND AND PURPOSE

In 1995, the Texas Legislature established the Juvenile Justice Alternative Education Program (JJAEP) - this legislation mandated the removal of certain dangerous and/or disruptive students to a separate educational facility, thus ensuring the safety and productivity of regular classrooms.

Currently, Section 37.007 does not give the board of trustees of a school district the option to expel students charged with certain felonies to the JJAEP *unless* the incident occurred on school property or at a school sponsored or school related event. As a result, violent offenders often interact on a daily basis with non-violent offenders in the Disciplinary Alternative Education Program (DAEP) or regular classroom setting.

In an effort to further ensure the safety of faculty and students on campus, this bill would amend Section 37.0081 to allow the board of trustees of a school district to expel a student and place the student in an alternative setting as provided by Subsection (a-1) if the student is charged with engaging in conduct defined as a felony offense in Title 5, Penal Code. The board of trustees may expel a student charged with a Title 5 felony regardless of whether the incident occurred on or off school property.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill provides that subject to Subsection (g) of Section 37.0081, but notwithstanding any other provision of this subchapter (Subchapter A. ALTERNATIVE SETTINGS FOR BEHAVIOR MANAGEMENT of Chapter 37. DISCIPLINE; LAW AND ORDER) the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) of Section 37.0081 (as added by this Act) if the student is charged with engaging in conduct defined as a felony offense in Title 5, Penal Code; or has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code; and the board or the board's designee determines that the student's presence in the regular classroom threatens the safety of other students or teachers, will be detrimental to the educational process; or is not in the best interests of the district's students.

The bill provides that the student must be placed in a juvenile justice alternative education program, if the school district is located in a county that operates a juvenile justice alternative education program or the school district contracts with the juvenile board of another county for the provision of a juvenile justice alternative education program; or a disciplinary alternative education program. Any such decision is final and may not be appealed.

The bill provides that the board of trustees or the board's designee may expel the student and order placement in accordance with Section 37.0081 regardless of the date on which the student's conduct occurred, the location at which the conduct occurred, whether the conduct occurred while the student was enrolled in the district, or whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

The bill provides that, notwithstanding Section 37.009(c) or (d) or any other provision of this subchapter, a student expelled and ordered placed in an alternative setting by the board of trustees or the board's designee is subject to that placement until the student graduates from high school; the charges described by Subsection (a) (1) of Section 37.0081 are dismissed or reduced to a misdemeanor offense, or the student completes the term of placement or is assigned to another program.

The bill provides that a student placed in an alternative setting in accordance with Section 37.0081 is entitled to the periodic review prescribed by Section 37.009(e).

The bill provides that Subsection (d) of Section 37.0081 continues to apply to the student if the student transfers to another school district in the state.

The bill provides that , to the extent of conflict between Section 37.0081 and Section 37.007, Section 37.007 prevails.

The bill provides that the Act applies beginning with the 2007-2008 school year.

The bill provides that Section 37.0081, as amended by this Act, applies to any student who attends school on or after the effective date of the Act and who engaged in conduct described by that section, regardless of the date on which the conduct occurred.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds a third criterion to Section 37.0081(d) describing how long a student expelled and ordered placed in an alternative setting is subject to that placement - that being until the student completes the term of the program or is assigned to another program.

The substitute also adds a provision stating that, to the extent of conflict between Section 37.0081 and Section 37.007, Section 37.007 prevails, and adds conforming language to such effect elsewhere in the bill.