

By: Patrick, Smith of Tarrant, et al.

H.B. No. 2532

A BILL TO BE ENTITLED

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AN ACT

relating to the expulsion and placement in alternative settings of public school students who engage in conduct constituting certain felonies.

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

SECTION 1. Section 37.0081, Education Code, is amended to read as follows:

Sec. 37.0081. EXPULSION AND PLACEMENT OF CERTAIN STUDENTS IN ~~[DISCIPLINARY]~~ ALTERNATIVE SETTINGS ~~[EDUCATION PROGRAMS]~~. (a) Subject to Subsection (h), but notwithstanding ~~[Notwithstanding]~~ any other provision of this subchapter, 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 [a] student in an alternative setting as provided by Subsection (a-1) ~~[in a disciplinary alternative education program under Section 37.008]~~ if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code; ~~[or]~~

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;

(C) is charged with engaging in conduct defined

1 as a felony offense in Title 5, Penal Code;

2 (D) has been referred to a juvenile court for  
3 allegedly engaging in delinquent conduct under Section 54.03,  
4 Family Code, for conduct defined as a felony offense in Title 5,  
5 Penal Code;

6 (E) has received probation or deferred  
7 adjudication for a felony offense under Title 5, Penal Code;

8 (F) has been convicted of a felony offense under  
9 Title 5, Penal Code; or

10 (G) has been arrested for or charged with a  
11 felony offense under Title 5, Penal Code; and

12 (2) the board or the board's designee determines that  
13 the student's presence in the regular classroom:

14 (A) threatens the safety of other students or  
15 teachers;

16 (B) will be detrimental to the educational  
17 process; or

18 (C) is not in the best interests of the  
19 district's students.

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

21 (1) a juvenile justice alternative education program,  
22 if the school district is located in a county that operates a  
23 juvenile justice alternative education program or the school  
24 district contracts with the juvenile board of another county for  
25 the provision of a juvenile justice alternative education program;  
26 or

27 (2) a disciplinary alternative education program.

1 (b) Any decision of the board of trustees or the board's  
2 designee under this section is final and may not be appealed.

3 (c) The board of trustees or the board's designee may expel  
4 the student and order placement in accordance with this section  
5 regardless of:

6 (1) the date on which the student's conduct occurred;

7 (2) the location at which the conduct occurred;

8 (3) whether the conduct occurred while the student was  
9 enrolled in the district; or

10 (4) whether the student has successfully completed any  
11 court disposition requirements imposed in connection with the  
12 conduct.

13 (d) Notwithstanding Section 37.009(c) or (d) or any other  
14 provision of this subchapter, a student expelled and ordered placed  
15 in an alternative setting by the board of trustees or the board's  
16 designee is subject to that placement until:

17 (1) the student graduates from high school;

18 (2) the charges described by Subsection (a)(1) are  
19 dismissed or reduced to a misdemeanor offense; or

20 (3) the student completes the term of the placement or  
21 is assigned to another program [~~may order placement in accordance~~  
22 ~~with this section for any period considered necessary by the board~~  
23 ~~or the board's designee in connection with the determination made~~  
24 ~~under Subsection (a)(2)].~~

25 (e) A student placed in an alternative setting [~~a~~  
26 ~~disciplinary alternative education program]~~ in accordance with  
27 this section is entitled to the periodic review prescribed by

1 Section 37.009(e).

2 (f) Subsection (d) continues to apply to the student if the  
3 student transfers to another school district in the state.

4 (g) The board of trustees shall reimburse a juvenile justice  
5 alternative education program in which a student is placed under  
6 this section for the actual cost incurred each day for the student  
7 while the student is enrolled in the program. For purposes of this  
8 subsection:

9 (1) the actual cost incurred each day for the student  
10 is determined by the juvenile board of the county operating the  
11 program; and

12 (2) the juvenile board shall determine the actual cost  
13 each day of the program based on the board's annual audit.

14 (h) To the extent of a conflict between this section and  
15 Section 37.007, Section 37.007 prevails.

16 SECTION 2. (a) This Act applies beginning with the  
17 2007-2008 school year.

18 (b) Section 37.0081, Education Code, as amended by this Act,  
19 applies to any student who attends school on or after the effective  
20 date of this Act and who engaged in conduct described by that  
21 section, regardless of the date on which the conduct occurred.

22 SECTION 3. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2007.