

## **BILL ANALYSIS**

C.S.H.B. 2657  
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Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Placement of a student into the juvenile justice system is an extreme disciplinary measure intended to be reserved for the most serious of student misbehaviors. Under current law, public school students may be sent to a juvenile justice alternative education program (JJAEP) for a number of infractions including bringing a gun to school, drug offenses, or aggravated assault. JJAEPs are run by county juvenile justice boards and are set up to serve and support students who have committed criminal offenses. While most offenses that warrant either a mandatory or discretionary referral to a JJAEP are clearly defined in Chapter 37 of the Education Code through Penal Code references, students serving in a disciplinary alternative education program (DAEP) may receive a discretionary referral for "serious or persistent misbehavior," which currently has no statutory definition. Because "serious or persistent" is not statutorily defined, the misbehaviors that are labeled as such vary widely and are often not criminal offenses. Differences between definitions mean that a student's referral from a DAEP to a JJAEP for "serious or persistent" misbehavior may depend more on where the student attends school than the student's behavior. According to Texas Education Agency data, expulsions to a JJAEP from a DAEP for serious or persistent misbehavior constitute nearly half of all expulsions.

C.S.H.B. 2657 seeks to prevent the misplacement of students into the juvenile justice system for non-criminal behaviors by requiring that misbehavior qualify as "serious and persistent" rather than "serious or persistent" in order for a student to be expelled and standardizing the definition of "serious and persistent misbehavior."

### **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**

C.S.H.B. 2657 amends the Education Code to authorize the expulsion of a student if the student, while placed in a disciplinary alternative education program (DAEP), engages in documented serious and persistent misbehavior while on the program campus despite documented behavioral interventions. The bill removes the condition that the misbehavior authorizing the expulsion be a violation of the student code of conduct or that it could be either serious or persistent to warrant the expulsion. The bill defines "serious and persistent misbehavior" for the purposes of these provisions as three or more occurrences within an academic year of any of the following:

- aggressive action, meaning deliberate violent behavior that poses a direct threat to the health or safety of others;
- extortion, meaning the gaining of money or other property by force or threat;
- conduct that constitutes coercion, as that term is defined in the Penal Code; or
- conduct that constitutes the offense of public lewdness, indecent exposure, or criminal mischief, as those offenses are defined in the Penal Code, the offense of

personal hazing, as that offense is defined in the Education Code, or the offense of harassment of a student or district employee, as the offense of harassment is defined in the Penal Code.

C.S.H.B. 2657 establishes as one condition authorizing the placement of a student in a DAEP for a period extending beyond the end of the school year the student's engagement in misbehavior that is both serious and persistent, rather than either, and removes the condition that such misbehavior be a violation of the school district's student code of conduct. The bill requires a memorandum of understanding between a school district in a county with a population greater than 125,000 and the county juvenile board to establish that a student may be placed in the county's juvenile justice alternative education program if the student engages in serious and persistent misbehavior and removes the requirement that the memorandum identify those categories of conduct the school district has defined in its student code of conduct as constituting serious or persistent misbehavior authorizing such placement.

C.S.H.B. 2657 adds a requirement that a school district's student code of conduct specify, among the circumstances under which the student's removal from a classroom, campus, or DAEP is authorized, circumstances in which a student engages in serious and persistent misbehavior.

C.S.H.B. 2657 makes its provisions applicable beginning with the 2010-2011 school year.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2657 differs from the original by clarifying that the documented serious and persistent misbehavior that warrants a student's expulsion is misbehavior that occurs while on the program campus.

C.S.H.B. 2657 differs from the original by making its provisions applicable to the 2010-2011 school year, whereas the original makes its provisions applicable to the 2009-2010 school year.

C.S.H.B. 2657 differs from the original by providing for a September 1, 2009, effective date, whereas the original provides for immediate effect contingent on the bill's receiving the necessary two-thirds vote in each house or a September 1, 2009, effective date.