

By: Olivo

H.B. No. 3039

A BILL TO BE ENTITLED

AN ACT

1
2 relating to continued placement of certain public school students
3 in disciplinary alternative education programs.

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

5 SECTION 1. Section 37.006, Education Code, is amended by
6 amending Subsections (h) and (i) and adding Subsections (h-1) and
7 (i-1) to read as follows:

8 (h) On receipt of notice under Article 15.27(g), Code of
9 Criminal Procedure, the superintendent or the superintendent's
10 designee shall review the student's placement in the disciplinary
11 alternative education program. The student may not be returned to
12 the regular classroom pending the review. The superintendent or
13 the superintendent's designee shall schedule a review of the
14 student's placement with the student's parent or guardian not later
15 than the third class day after the superintendent or
16 superintendent's designee receives notice from the office or
17 official designated by the court. After reviewing the notice and
18 receiving information from the student's parent or guardian, the
19 superintendent or the superintendent's designee may continue the
20 student's placement in the disciplinary alternative education
21 program only if there is overwhelming evidence [~~reason to believe~~]
22 that the presence of the student in the regular classroom
23 imminently threatens the safety of other students or teachers.

24 (h-1) If a student's placement in the disciplinary

1 alternative education program is continued in accordance with
2 Subsection (h), the superintendent or designee must prepare a
3 written statement of the evidence on which the determination to
4 continue the student's placement in the program was based. A copy
5 of the statement must be provided to the student's parent or
6 guardian.

7 (i) The student or the student's parent or guardian may
8 appeal the superintendent's decision under Subsection (h) to the
9 board of trustees. The student may not be returned to the regular
10 classroom pending the appeal. The board shall, at the next
11 scheduled meeting, review the notice provided under Article
12 15.27(g), Code of Criminal Procedure, and the written statement
13 prepared under Subsection (h-1) and receive information from the
14 student, the student's parent or guardian, and the superintendent
15 or superintendent's designee and confirm or reverse the decision
16 under Subsection (h). The board shall make a record of the
17 proceedings. The record must include a copy of the written
18 statement prepared under Subsection (h-1). If the board confirms
19 the decision of the superintendent or superintendent's designee,
20 the board shall:

21 (1) prepare a written statement of the reasons the
22 decision was confirmed that is signed by each board member in
23 agreement with the decision and included in the record of the
24 proceedings; and

25 (2) inform the student and the student's parent or
26 guardian of the right to appeal to the commissioner under
27 Subsection (j).

1 (i-1) Notwithstanding Subsection (i), the board of trustees
2 shall hold a special meeting to consider a student's appeal under
3 that subsection if the next regularly scheduled meeting at which
4 the appeal would otherwise be considered is scheduled to occur more
5 than 21 days after the date on which the request for an appeal is
6 received. The special meeting must be held as soon as possible.

7 SECTION 2. This Act applies beginning with the 2009-2010
8 school year.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2009.