

BILL ANALYSIS

C.S.H.B. 622
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The placement of a student into the juvenile justice system is considered by many to be an extreme disciplinary measure intended to be reserved for the most serious of student misbehavior. Public school students may currently be sent to a juvenile justice alternative education program (JJAEP) for a variety of infractions, including certain drug and assaultive offenses. JJAEPs are run by county juvenile justice boards to serve and support students who have committed criminal offenses. While most offenses that warrant a mandatory or discretionary referral to a JJAEP are clearly defined, some students serving in a disciplinary alternative education program (DAEP) receive a discretionary referral to a JJAEP for "serious or persistent misbehavior." There is concern that the misbehavior labeled as such can vary widely and, in some cases, not qualify as a criminal offense, meaning that a student's referral from a DAEP to a JJAEP for "serious or persistent misbehavior" may depend on irrelevant factors more than the student's actual behavior. According to certain education agency data, expulsions from a DAEP and subsequent referrals to a JJAEP for serious or persistent misbehavior constitute a substantial portion of all discretionary referrals to JJAEPs.

C.S.H.B. 622 seeks to prevent the misplacement of students into the juvenile justice system for noncriminal behavior by changing the basis on which certain disciplinary action is taken against certain public school students.

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. 622 amends the Education Code to change the conditions under which the expulsion of a student is authorized to require that the student, while placed in a disciplinary alternative education program (DAEP), has engaged in documented serious misbehavior while on the program campus despite documented behavioral interventions and to remove the condition that the misbehavior be in violation of a school district's student code of conduct and the condition that the misbehavior be persistent. The bill defines "serious misbehavior" as 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 defined in the Penal Code; or conduct that constitutes the offense of public lewdness, indecent exposure, criminal mischief, personal hazing, or harassment of a student or district employee.

C.S.H.B. 622, in a provision setting conditions under which a student may be placed in a DAEP for a period that extends beyond the end of the school year based on a determination by the board of trustees of a school district or the board's designee, removes the condition that the student has engaged in persistent misbehavior and removes the condition that the misbehavior violates a district's student code of conduct.

C.S.H.B. 622 changes the information to be included in the joint memorandum of understanding required to be entered into annually by each school district in a county with a population greater than 125,000 and the county juvenile board to require that the memorandum establish that a student may be placed in the county's juvenile justice alternative education program (JJAEP) if the student engages in serious misbehavior, removes the requirement that the memorandum identify those categories of conduct that the school district has defined in its student code of conduct as constituting serious or persistent misbehavior for which placement in a JJAEP is authorized, and makes conforming changes.

C.S.H.B. 622 specifies that a school district's code of conduct is required to include, among the circumstances under which a student may be removed from a classroom, campus, or DAEP, circumstances in which a student engages in serious misbehavior.

C.S.H.B. 622 makes its provisions applicable beginning with the 2012-2013 school year.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 622 differs from the original by specifying that a school district's code of conduct is required to include, among the circumstances under which a student may be removed from a classroom, campus, or disciplinary alternative education program (DAEP), circumstances in which a student engages in serious misbehavior, rather than serious and persistent misbehavior, as in the original.

C.S.H.B. 622 differs from the original by requiring, as a condition under which the expulsion of a student is authorized, that the student, while placed in a DAEP, has engaged in documented serious misbehavior while on the program campus despite documented behavioral interventions, whereas the original requires, as a condition, that the student placed in a DAEP has engaged in documented serious and persistent misbehavior while on the program campus despite such interventions.

C.S.H.B. 622 differs from the original by defining "serious misbehavior," rather than "serious and persistent misbehavior," as in the original.

C.S.H.B. 622 differs from the original by requiring, as a condition under which a student may be placed in a DAEP for a period that extends beyond the end of the school year, that the student has engaged in serious misbehavior, whereas the original requires that the student has engaged in serious and persistent misbehavior.

C.S.H.B. 622 differs from the original by requiring that the joint memorandum of understanding required to be entered into annually by certain school districts and county juvenile boards establish that a student may be placed in the county's juvenile justice alternative education program (JJAEP) if the student engages in serious misbehavior, rather than serious and persistent misbehavior, as in the original. The substitute differs from the original by requiring the memorandum to address the circumstances under which certain students who continue to engage in serious misbehavior, rather than serious and persistent misbehavior as in the original, are required to be admitted into the JJAEP.