

## **BILL ANALYSIS**

Senate Research Center

H.B. 968  
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Education  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 968 seeks to ensure consistency in consequences for certain offenses committed by public school students. Chapter 37 (Discipline; Law and Order), Education Code, governs discipline in public schools and provides guidelines on discretionary and mandatory removals and expulsions for students who administrators believe have committed certain offenses.

Removals are served in the district's Disciplinary Alternative Education Program (DAEP) and expulsions, in counties with a population greater than 125,000, are served in the Juvenile Justice Alternative Education Program (JJAEP), but discretionary expulsions can also be served at the DAEP or the JJAEP.

H.B. 968 amends current law relating to expulsion from school or placement in a disciplinary alternative education program.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 37.001(a), Education Code, as follows:

(a) Requires that the student code of conduct, in addition to establishing standards for student conduct:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program (DAEP), including circumstances in which a student engages in serious misbehavior under Section 37.007(c); and

(2)-(8) Makes no changes to these subdivisions.

SECTION 2. Amends Sections 37.006(c) and (d), Education Code, as follows:

(c) Requires a student, in addition to Subsections (a) (relating to removing a student for certain actions) and (b) (relating to removing a student from class and placing the student in a DAEP), to be removed from class and placed in a DAEP under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03 (Deferred Prosecution), Family Code for conduct defined as: a felony offense in Title 5 (Offenses Against the Person), Penal Code, or the felony offense of aggravated robbery under Section 29.03 (Aggravated Robbery), Penal Code;

(2) a court or jury finds that the student has engaged in delinquent under Section 54.03 (Adjudication Hearing), Family Code, for conduct defined as a felony

offense in Title 5, Penal Code; or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) Authorizes a student, in addition to Subsections (a), (b), and (c), to be removed from class and placed in a DAEP under Section 37.008 based on conduct occurring more than 300 feet off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the education process.

SECTION 3. Amends Sections 37.007(a), (b), and (c), Education Code, as follows:

(a) Requires a student, except as provided by Subsection (k) (relating to prohibiting a student from being expelled for using a firearm at an approved target range or for a school sponsored sports competition), to be expelled from a school if the student, while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

(1) uses, exhibits, or possesses a firearm as defined by Section 46.01(3) (defining "firearm"), Penal Code, or 18 U.S.C. Section 921; or

(2)-(3) Makes no changes to these subdivisions.

(b) Authorizes a student to be expelled if the student:

(1) Makes no changes to this subdivision;

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05 (Deadly Conduct), Penal Code; or

(3) engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student if the conduct occurs more than 300 feet off campus and while the student is not in attendance at a school-sponsored or school related activity.

Deletes existing text authorizing a student to be expelled if the student, subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in conduct specified by Subsection (a) or possesses a firearm, as defined by 18 U.S.C Section 921; or engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property.

(c) Authorizes a student to be expelled if the student, while placed in a DAEP, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions, rather than authorizes a student to be expelled if the student, while placed in an alternative education program for disciplinary reasons, continues to engage in serious or persistent misbehavior that violates the district's student code of conduct. Defines, for purposes of this subsection, "serious misbehavior."

SECTION 4. Amends Section 37.0081(a), Education Code, as follows:

(a) Authorizes the board of trustees of a school district (board), or the board's designee, after an opportunity for a hearing, subject to Subsection (h), but notwithstanding any other provision of this subchapter, to expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) 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 the felony offense of aggravated robbery under Section 29.03, Penal Code;

(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; or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as a felony offense in Title 5, Penal Code; or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) 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; or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) Makes no changes to this subdivision.

SECTION 5. Amends Section 37.009(c), Education Code, as follows:

(c) Requires the board or the board's designee before it may place a student in a DAEP for a period that extends beyond the end of the school year, to determine that:

(1) Makes no changes to this subdivision;

(2) the student has engaged in serious misbehavior, as defined by Section 37.007(c), rather than the student has engaged in serious or persistent misbehavior that violates the district's code of conduct.

SECTION 6. Amends Sections 37.011(k) and (l), Education Code, as follows:

(k) Requires each school district in a county with a population greater than 125,000 and the county juvenile board to annually enter into a joint memorandum of understanding that:

(1)-(2) Makes no changes to these subdivisions;

(3) establishes that a student may be placed in the juvenile justice alternative education program (JJAEP) if the student engages in serious misbehavior, as defined by Section 37.007(c), rather than indentifies those categories of conduct that the school district has defined it its student code of conduct as constituting serious or persistent misbehavior for which a student may be placed in the JJAEP; and

(4)-(8) Makes no changes to these subdivisions.

(l) Requires the school district to be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b), and (f), rather than Section 37.007(b), (c), and (f) but who are not eligible for admission into the JJAEP in accordance with the memorandum of understanding required under this section. Requires that the memorandum of understanding to address the circumstances under which such students who continue to engage in serious misbehavior rather than serious or persistent misbehavior, as defined by Section 37.007(c), to be admitted into the JJAEP.

SECTION 7. (a) Provides that, except as provided by Subsection (b) of this section, this Act applies beginning with the 2011-2012 school year.

(b) Provides that Sections 37.001(a), 37.007(c), 37.009(c), and 37.011(k) and (l), Education Code, as amended by this Act, apply beginning with the 2012-2013 school year.

SECTION 8. Effective date: upon passage or September 1, 2011.