

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 968
By: Strama (Watson)
Education
5/18/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.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 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 disciplinary alternative education program (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 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 2. Amends Sections 37.007(c), Education Code, as follows:

(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 3. 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 4. 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 5. (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 37.007(c), and 37.011(k) and (l), Education Code, as amended by this Act, apply beginning with the 2012-2013 school year.

SECTION 6. Effective date: upon passage or September 1, 2011.