

By: Hochberg

H.B. No. 622

Substitute the following for H.B. No. 622:

By: Dutton

C.S.H.B. No. 622

A BILL TO BE ENTITLED

AN ACT

relating to disciplinary action taken against certain public school students on the basis of serious misbehavior.

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

SECTION 1. Section 37.001(a), Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(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, including circumstances in which a student engages in serious misbehavior under Section 37.007(c);

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by

1 Section 37.007;

2 (4) specify that consideration will be given, as a
3 factor in each decision concerning suspension, removal to a
4 disciplinary alternative education program, expulsion, or
5 placement in a juvenile justice alternative education program,
6 regardless of whether the decision concerns a mandatory or
7 discretionary action, to:

8 (A) self-defense;

9 (B) intent or lack of intent at the time the
10 student engaged in the conduct;

11 (C) a student's disciplinary history; or

12 (D) a disability that substantially impairs the
13 student's capacity to appreciate the wrongfulness of the student's
14 conduct;

15 (5) provide guidelines for setting the length of a
16 term of:

17 (A) a removal under Section 37.006; and

18 (B) an expulsion under Section 37.007;

19 (6) address the notification of a student's parent or
20 guardian of a violation of the student code of conduct committed by
21 the student that results in suspension, removal to a disciplinary
22 alternative education program, or expulsion;

23 (7) prohibit bullying, harassment, and making hit
24 lists and ensure that district employees enforce those
25 prohibitions; and

26 (8) provide, as appropriate for students at each grade
27 level, methods, including options, for:

1 (A) managing students in the classroom and on
2 school grounds;

3 (B) disciplining students; and

4 (C) preventing and intervening in student
5 discipline problems, including bullying, harassment, and making
6 hit lists.

7 SECTION 2. Section 37.007(c), Education Code, is amended to
8 read as follows:

9 (c) A student may be expelled if the student, while placed
10 in a disciplinary ~~[an]~~ alternative education program, engages ~~[for~~
11 ~~disciplinary reasons, continues to engage]~~ in documented serious
12 ~~[or persistent]~~ misbehavior while on the program campus despite
13 documented behavioral interventions ~~[that violates the district's~~
14 ~~student code of conduct]~~. For purposes of this subsection,
15 "serious misbehavior" means:

16 (1) deliberate violent behavior that poses a direct
17 threat to the health or safety of others;

18 (2) extortion, meaning the gaining of money or other
19 property by force or threat;

20 (3) conduct that constitutes coercion, as defined by
21 Section 1.07, Penal Code; or

22 (4) conduct that constitutes the offense of:

23 (A) public lewdness under Section 21.07, Penal
24 Code;

25 (B) indecent exposure under Section 21.08, Penal
26 Code;

27 (C) criminal mischief under Section 28.03, Penal

1 Code;

2 (D) personal hazing under Section 37.152; or

3 (E) harassment under Section 42.07(a)(1), Penal
4 Code, of a student or district employee.

5 SECTION 3. Section 37.009(c), Education Code, is amended to
6 read as follows:

7 (c) Before it may place a student in a disciplinary
8 alternative education program for a period that extends beyond the
9 end of the school year, the board or the board's designee must
10 determine that:

11 (1) the student's presence in the regular classroom
12 program or at the student's regular campus presents a danger of
13 physical harm to the student or to another individual; or

14 (2) the student has engaged in serious ~~[or persistent]~~
15 misbehavior, as defined by Section 37.007(c) [that violates the
16 district's student code of conduct].

17 SECTION 4. Sections 37.011(k) and (l), Education Code, are
18 amended to read as follows:

19 (k) Each school district in a county with a population
20 greater than 125,000 and the county juvenile board shall annually
21 enter into a joint memorandum of understanding that:

22 (1) outlines the responsibilities of the juvenile
23 board concerning the establishment and operation of a juvenile
24 justice alternative education program under this section;

25 (2) defines the amount and conditions on payments from
26 the school district to the juvenile board for students of the school
27 district served in the juvenile justice alternative education

1 program whose placement was not made on the basis of an expulsion
2 required under Section 37.007(a), (d), or (e);

3 (3) establishes [~~identifies those categories of~~
4 ~~conduct~~] that [~~the school district has defined in its student code~~
5 ~~of conduct as constituting serious or persistent misbehavior for~~
6 ~~which~~] a student may be placed in the juvenile justice alternative
7 education program if the student engages in serious misbehavior, as
8 defined by Section 37.007(c);

9 (4) identifies and requires a timely placement and
10 specifies a term of placement for expelled students for whom the
11 school district has received a notice under Section 52.041(d),
12 Family Code;

13 (5) establishes services for the transitioning of
14 expelled students to the school district prior to the completion of
15 the student's placement in the juvenile justice alternative
16 education program;

17 (6) establishes a plan that provides transportation
18 services for students placed in the juvenile justice alternative
19 education program;

20 (7) establishes the circumstances and conditions
21 under which a juvenile may be allowed to remain in the juvenile
22 justice alternative education program setting once the juvenile is
23 no longer under juvenile court jurisdiction; and

24 (8) establishes a plan to address special education
25 services required by law.

26 (1) The school district shall be responsible for providing
27 an immediate educational program to students who engage in behavior

1 resulting in expulsion under Section 37.007(b) [~~, (c),~~] and (f) but
2 who are not eligible for admission into the juvenile justice
3 alternative education program in accordance with the memorandum of
4 understanding required under this section. The school district may
5 provide the program or the school district may contract with a
6 county juvenile board, a private provider, or one or more other
7 school districts to provide the program. The memorandum of
8 understanding shall address the circumstances under which such
9 students who continue to engage in serious [~~or persistent~~]
10 misbehavior, as defined by Section 37.007(c), shall be admitted
11 into the juvenile justice alternative education program.

12 SECTION 5. This Act applies beginning with the 2012-2013
13 school year.

14 SECTION 6. This Act takes effect September 1, 2011.