

By: Hochberg

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 and persistent 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 and persistent 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 and ~~[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 and persistent misbehavior" means three or more
16 occurrences within an academic year of any of the following:

17 (1) aggressive action, meaning deliberate violent
18 behavior that poses a direct threat to the health or safety of
19 others;

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

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

24 (4) conduct that constitutes the offense of:

25 (A) public lewdness under Section 21.07, Penal
26 Code;

27 (B) indecent exposure under Section 21.08, Penal

1 Code;

2 (C) criminal mischief under Section 28.03, Penal

3 Code;

4 (D) personal hazing under Section 37.152; or

5 (E) harassment under Section 42.07(a)(1), Penal

6 Code, of a student or district employee.

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

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

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

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

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

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

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

27 (2) defines the amount and conditions on payments from

1 the school district to the juvenile board for students of the school
2 district served in the juvenile justice alternative education
3 program whose placement was not made on the basis of an expulsion
4 required under Section 37.007(a), (d), or (e);

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

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

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

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

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

26 (8) establishes a plan to address special education
27 services required by law.

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

14 SECTION 5. This Act applies beginning with the 2012-2013
15 school year.

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