

1-1 By: Strama (Senate Sponsor - Watson) H.B. No. 968  
1-2 (In the Senate - Received from the House April 20, 2011;  
1-3 April 26, 2011, read first time and referred to Committee on  
1-4 Education; May 19, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 19, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 968 By: Patrick

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to expulsion from school or placement in a disciplinary  
1-11 alternative education program.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Sections 37.006(c) and (d), Education Code, are  
1-14 amended to read as follows:

1-15 (c) In addition to Subsections (a) and (b), a student shall  
1-16 be removed from class and placed in a disciplinary alternative  
1-17 education program under Section 37.008 based on conduct occurring  
1-18 off campus and while the student is not in attendance at a  
1-19 school-sponsored or school-related activity if:

1-20 (1) the student receives deferred prosecution under  
1-21 Section 53.03, Family Code, for conduct defined as:

1-22 (A) a felony offense in Title 5, Penal Code; or  
1-23 (B) the felony offense of aggravated robbery  
1-24 under Section 29.03, Penal Code;

1-25 (2) a court or jury finds that the student has engaged  
1-26 in delinquent conduct under Section 54.03, Family Code, for conduct  
1-27 defined as:

1-28 (A) a felony offense in Title 5, Penal Code; or  
1-29 (B) the felony offense of aggravated robbery  
1-30 under Section 29.03, Penal Code; or

1-31 (3) the superintendent or the superintendent's  
1-32 designee has a reasonable belief that the student has engaged in a  
1-33 conduct defined as:

1-34 (A) a felony offense in Title 5, Penal Code; or  
1-35 (B) the felony offense of aggravated robbery  
1-36 under Section 29.03, Penal Code.

1-37 (d) In addition to Subsections (a), (b), and (c), a student  
1-38 may be removed from class and placed in a disciplinary alternative  
1-39 education program under Section 37.008 based on conduct occurring  
1-40 off campus and while the student is not in attendance at a  
1-41 school-sponsored or school-related activity if:

1-42 (1) the superintendent or the superintendent's  
1-43 designee has a reasonable belief that the student has engaged in  
1-44 conduct defined as a felony offense other than aggravated robbery  
1-45 under Section 29.03, Penal Code, or those offenses defined in Title  
1-46 5, Penal Code; and

1-47 (2) the continued presence of the student in the  
1-48 regular classroom threatens the safety of other students or  
1-49 teachers or will be detrimental to the educational process.

1-50 SECTION 2. Section 37.007(c), Education Code, is amended to  
1-51 read as follows:

1-52 (c) A student may be expelled if the student, while placed  
1-53 in a disciplinary ~~an~~ alternative education program, engages ~~for~~  
1-54 ~~disciplinary reasons, continues to engage~~ in documented serious  
1-55 ~~or persistent~~ misbehavior while on the program campus despite  
1-56 documented behavioral interventions ~~that violates the district's~~  
1-57 ~~student code of conduct~~. For purposes of this subsection,  
1-58 "serious misbehavior" means:

1-59 (1) deliberate violent behavior that poses a direct  
1-60 threat to the health or safety of others;

1-61 (2) extortion, meaning the gaining of money or other  
1-62 property by force or threat;

1-63 (3) conduct that constitutes coercion, as defined by

2-1 Section 1.07, Penal Code; or  
 2-2 (4) conduct that constitutes the offense of:  
 2-3 (A) public lewdness under Section 21.07, Penal  
 2-4 Code;  
 2-5 (B) indecent exposure under Section 21.08, Penal  
 2-6 Code;  
 2-7 (C) criminal mischief under Section 28.03, Penal  
 2-8 Code;  
 2-9 (D) personal hazing under Section 37.152; or  
 2-10 (E) harassment under Section 42.07(a)(1), Penal  
 2-11 Code, of a student or district employee.

2-12 SECTION 3. Section 37.0081(a), Education Code, is amended  
 2-13 to read as follows:

2-14 (a) Subject to Subsection (h), but notwithstanding any  
 2-15 other provision of this subchapter, the board of trustees of a  
 2-16 school district, or the board's designee, after an opportunity for  
 2-17 a hearing may expel a student and elect to place the student in an  
 2-18 alternative setting as provided by Subsection (a-1) if:

2-19 (1) the student:

2-20 (A) has received deferred prosecution under  
 2-21 Section 53.03, Family Code, for conduct defined as:

2-22 (i) a felony offense in Title 5, Penal Code;  
 2-23 or

2-24 (ii) the felony offense of aggravated  
 2-25 robbery under Section 29.03, Penal Code;

2-26 (B) has been found by a court or jury to have  
 2-27 engaged in delinquent conduct under Section 54.03, Family Code, for  
 2-28 conduct defined as:

2-29 (i) a felony offense in Title 5, Penal Code;  
 2-30 or

2-31 (ii) the felony offense of aggravated  
 2-32 robbery under Section 29.03, Penal Code;

2-33 (C) is charged with engaging in conduct defined  
 2-34 as:

2-35 (i) a felony offense in Title 5, Penal Code;  
 2-36 or

2-37 (ii) the felony offense of aggravated  
 2-38 robbery under Section 29.03, Penal Code;

2-39 (D) has been referred to a juvenile court for  
 2-40 allegedly engaging in delinquent conduct under Section 54.03,  
 2-41 Family Code, for conduct defined as:

2-42 (i) a felony offense in Title 5, Penal Code;  
 2-43 or

2-44 (ii) the felony offense of aggravated  
 2-45 robbery under Section 29.03, Penal Code;

2-46 (E) has received probation or deferred  
 2-47 adjudication for a felony offense under Title 5, Penal Code, or the  
 2-48 felony offense of aggravated robbery under Section 29.03, Penal  
 2-49 Code;

2-50 (F) has been convicted of a felony offense under  
 2-51 Title 5, Penal Code, or the felony offense of aggravated robbery  
 2-52 under Section 29.03, Penal Code; or

2-53 (G) has been arrested for or charged with a  
 2-54 felony offense under Title 5, Penal Code, or the felony offense of  
 2-55 aggravated robbery under Section 29.03, Penal Code; and

2-56 (2) the board or the board's designee determines that  
 2-57 the student's presence in the regular classroom:

2-58 (A) threatens the safety of other students or  
 2-59 teachers;

2-60 (B) will be detrimental to the educational  
 2-61 process; or

2-62 (C) is not in the best interests of the  
 2-63 district's students.

2-64 SECTION 4. Sections 37.011(k) and (l), Education Code, are  
 2-65 amended to read as follows:

2-66 (k) Each school district in a county with a population  
 2-67 greater than 125,000 and the county juvenile board shall annually  
 2-68 enter into a joint memorandum of understanding that:

2-69 (1) outlines the responsibilities of the juvenile

3-1 board concerning the establishment and operation of a juvenile  
3-2 justice alternative education program under this section;

3-3 (2) defines the amount and conditions on payments from  
3-4 the school district to the juvenile board for students of the school  
3-5 district served in the juvenile justice alternative education  
3-6 program whose placement was not made on the basis of an expulsion  
3-7 required under Section 37.007(a), (d), or (e);

3-8 (3) establishes [~~identifies those categories of~~  
3-9 ~~conduct~~] that [~~the school district has defined in its student code~~  
3-10 ~~of conduct as constituting serious or persistent misbehavior for~~  
3-11 ~~which~~] a student may be placed in the juvenile justice alternative  
3-12 education program if the student engages in serious misbehavior, as  
3-13 defined by Section 37.007(c);

3-14 (4) identifies and requires a timely placement and  
3-15 specifies a term of placement for expelled students for whom the  
3-16 school district has received a notice under Section 52.041(d),  
3-17 Family Code;

3-18 (5) establishes services for the transitioning of  
3-19 expelled students to the school district prior to the completion of  
3-20 the student's placement in the juvenile justice alternative  
3-21 education program;

3-22 (6) establishes a plan that provides transportation  
3-23 services for students placed in the juvenile justice alternative  
3-24 education program;

3-25 (7) establishes the circumstances and conditions  
3-26 under which a juvenile may be allowed to remain in the juvenile  
3-27 justice alternative education program setting once the juvenile is  
3-28 no longer under juvenile court jurisdiction; and

3-29 (8) establishes a plan to address special education  
3-30 services required by law.

3-31 (1) The school district shall be responsible for providing  
3-32 an immediate educational program to students who engage in behavior  
3-33 resulting in expulsion under Section 37.007(b) [~~, (e),~~] and (f) but  
3-34 who are not eligible for admission into the juvenile justice  
3-35 alternative education program in accordance with the memorandum of  
3-36 understanding required under this section. The school district may  
3-37 provide the program or the school district may contract with a  
3-38 county juvenile board, a private provider, or one or more other  
3-39 school districts to provide the program. The memorandum of  
3-40 understanding shall address the circumstances under which such  
3-41 students who continue to engage in serious [~~or persistent~~]  
3-42 misbehavior, as defined by Section 37.007(c), shall be admitted  
3-43 into the juvenile justice alternative education program.

3-44 SECTION 5. (a) Except as provided by Subsection (b) of this  
3-45 section, this Act applies beginning with the 2011-2012 school year.

3-46 (b) Sections 37.007(c) and 37.011(k) and (l), Education  
3-47 Code, as amended by this Act, apply beginning with the 2012-2013  
3-48 school year.

3-49 SECTION 6. This Act takes effect immediately if it receives  
3-50 a vote of two-thirds of all the members elected to each house, as  
3-51 provided by Section 39, Article III, Texas Constitution. If this  
3-52 Act does not receive the vote necessary for immediate effect, this  
3-53 Act takes effect September 1, 2011.

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