

**House Bill 968**  
Senate Amendments  
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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 Section 37.007;

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

(A) self-defense;

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

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's

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capacity to appreciate the wrongfulness of the student's conduct;

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

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

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

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

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

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

(B) disciplining students; and

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

SECTION 2. Sections 37.006(c) and (d), Education Code, are amended to read as follows:

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program 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, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

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

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

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program 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, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

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

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

(A) a felony offense in Title 5, Penal Code; or

(B) 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) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program 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 educational process.

SECTION 3. Sections 37.007(a), (b), and (c), Education Code, are amended to read as follows:

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student, while on or within 300

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

(A) a felony offense in Title 5, Penal Code; or

(B) 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) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program 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 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 educational process.

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

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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:

(1) uses, exhibits, or possesses:

(A) a firearm as defined by Section 46.01(3), Penal Code, or 18 U.S.C. Section 921;

(B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;

(C) a club as defined by Section 46.01(1), Penal Code; or

(D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code;

(2) engages in conduct that contains the elements of the offense of:

(A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) arson under Section 28.02, Penal Code;

(C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) indecency with a child under Section 21.11, Penal Code;

(E) aggravated kidnapping under Section 20.04, Penal Code;

(F) aggravated robbery under Section 29.03, Penal Code;

(G) manslaughter under Section 19.04, Penal Code;

(H) criminally negligent homicide under Section 19.05, Penal Code; or

(I) continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

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(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(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:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C) engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code; or

~~(3) [subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:~~

~~[(A) engages in conduct specified by Subsection (a); or~~

~~[(B) possesses a firearm, as defined by 18 U.S.C. Section~~

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921; or

~~[(4)]~~ 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 [without regard to whether the conduct occurs on or off of school property or] while the student is not in attendance at [attending] a school-sponsored or school-related activity [on or off of school property].

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

- (1) deliberate violent behavior that poses a direct threat to the health or safety of others;
- (2) extortion, meaning the gaining of money or other property by force or threat;
- (3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
- (4) conduct that constitutes the offense of:
  - (A) public lewdness under Section 21.07, Penal Code;
  - (B) indecent exposure under Section 21.08, Penal Code;
  - (C) criminal mischief under Section 28.03, Penal Code;
  - (D) personal hazing under Section 37.152; or
  - (E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

SECTION 4. Section 37.0081(a), Education Code, is

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

- (1) deliberate violent behavior that poses a direct threat to the health or safety of others;
- (2) extortion, meaning the gaining of money or other property by force or threat;
- (3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or
- (4) conduct that constitutes the offense of:
  - (A) public lewdness under Section 21.07, Penal Code;
  - (B) indecent exposure under Section 21.08, Penal Code;
  - (C) criminal mischief under Section 28.03, Penal Code;
  - (D) personal hazing under Section 37.152; or
  - (E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

SECTION 3. Same as House version.

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amended to read as follows:

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may 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:

(i) a felony offense in Title 5, Penal Code; or

(ii) 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:

(i) a felony offense in Title 5, Penal Code; or

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

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) 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:

(i) a felony offense in Title 5, Penal Code; or

(ii) 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,

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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) the board or the board's designee determines that the student's presence in the regular classroom:

- (A) threatens the safety of other students or teachers;
- (B) will be detrimental to the educational process; or
- (C) is not in the best interests of the district's students.

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

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

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

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

SECTION 6. Sections 37.011(k) and (l), Education Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

(1) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b)[~~-(e)~~] and (f) but who are not eligible for admission into the juvenile

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justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious [~~or persistent~~] misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

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

(b) 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. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

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

(b) 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. Same as House version.

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