

## **BILL ANALYSIS**

Senate Research Center  
85R23087 KJE-F

C.S.S.B. 370  
By: Garcia  
Education  
5/5/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Studies demonstrate the alarming rates of students in Texas elementary schools who are suspended, sent to alternative schools, or expelled, and the negative impacts that they have on students and schools. A 2016 Texas Appleseed report shows that in the 2013-2014 school year, Texas elementary schools had 88,310 out-of-school suspensions and of those, 2,513 went to Pre-K students and 36,753 went to K-2nd grade students.

According to the report, African American students compose 42 percent of all elementary students that receive such disciplinary actions despite being only 13 percent of the total elementary school population. Boys compose 84 percent of all elementary school students who receive such disciplinary actions, despite being only 51 percent of the total elementary school population. And special education students compose 22 percent of all elementary students that receive such disciplinary actions despite being only nine percent of the total elementary school population. It appears as though special education students and students of color, especially young boys of color, are being suspended and expelled at disproportionate rates.

Furthermore, studies have shown that students who are expelled and suspended are more likely to have low grades, drop out of high school, and/or face incarceration later in life.

S.B. 370 prohibits the expulsion and prevention of all children below the third grade. We also plan on submitting a committee substitute to address alternatives to suspension for teachers.

Supporters include Texas Appleseed and Texans Care for Children. We understand that some teachers' groups might be initially opposed to the bill, but we believe the proposed committee substitute would ease their concerns.

#### **Citations:**

- 1) Suspended Childhood: An Analysis of Exclusionary Discipline of Texas' Pre-K and Elementary School Students: <http://stories.texasappleseed.org/suspended-childhood>
- 2) U.S. Departments of Health and Human Services and Education: Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings  
<<https://www2.ed.gov/policy/gen/guid/school-discipline/policy-statement-ece-expulsions-suspensions.pdf>> (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 370 amends current law relating to the discipline and behavior management of a student enrolled in a grade level below grade three at a school district or open-enrollment charter school.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 5 (Sections 37.0182 and 37.0183, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 12.104(b), Education Code, to provide that an open-enrollment charter school (school) is subject to an applicable prohibition, restriction, or requirement

imposed by this title (Public Education) or a rule adopted under this title relating to, among certain other factors, discipline management practices or behavior management techniques (BMTs) under Sections 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), 37.0182, 37.0183, and 37.023, which are added by this Act, including the staff development training required under Section 21.451(d)(4), rather than discipline management practices or BMTs under Section 37.0021.

SECTION 2. Amends Section 21.451(d), Education Code, as follows:

(d) Requires that staff development, subject to Subsection (e) (relating to the training requirements for an educator who works primarily outside the area of special education under certain circumstances) and to Section 21.3541 (Appraisal and Professional Development System for Principals) and rules adopted under that section, include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 U.S.C. Section 7801), rather than include training based on scientifically based research, as defined by Section 9101, No Child Left Behind Act of 2001 (20 U.S.C. Section 7801). Requires that staff development, notwithstanding Subdivision (1)(C) (relating to authorizing staff development to include training in certain discipline strategies and a certain student code of conduct), include for educators who work with students enrolled in a grade level below grade three training on the positive behavior and early detection prevention programs under Section 37.0183. Makes nonsubstantive changes.

SECTION 3. Reenacts Section 37.001(a), Education Code, as amended by Chapters 487 (S.B. 1541) and 1409 (S.B. 1114), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

(a) Requires that the student code of conduct, in addition to establishing standards for student conduct:

(1) through (4) makes no changes to these subdivisions;

(5) state that a student enrolled in a grade level below grade three is prohibited from being placed in out-of-school suspension except as authorized by this subchapter (Alternative Settings for Behavior Management);

(6) through (8) redesignates existing Subdivisions (5), (6), and (7) as Subdivisions (6), (7), and (8) and makes no further changes to these subdivisions;

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

(A) makes no changes to this paragraph;

(B) disciplining students, including disciplining students enrolled in a grade level below grade three using BMTs that comply with the minimum standards established under Section 37.0182 as an alternative to out-of-school suspension; and

(C) makes no changes to this paragraph.

SECTION 4. Amends Section 37.005, Education Code, by adding Subsection (c), to prohibit a student enrolled in a grade level below grade three from being placed in out-of-school suspension.

SECTION 5. Amends Subchapter A, Chapter 37, Education Code, by adding Sections 37.0182, 37.0183, and 37.023, as follows:

Sec. 37.0182. APPROPRIATE BEHAVIOR MANAGEMENT TECHNIQUES FOR CERTAIN STUDENTS. (a) Requires the commissioner of education (commissioner), by

rule, to establish minimum standards for BMTs that are authorized to be used for a student enrolled in a grade level below grade three as an alternative to placing the student in out-of-school suspension under Section 37.005 (Suspension). Requires that the standards require a BMT to be a positive behavior support that is age appropriate and research based.

(b) Requires the Texas Education Agency (TEA) to develop a database of positive behavior support systems that satisfy the standards established under Subsection (a) and make the database available to each school district (district) and school.

Sec. 37.0183. POSITIVE BEHAVIOR AND EARLY DETECTION AND PREVENTION PROGRAMS FOR CERTAIN STUDENTS. (a) Requires each district to develop and implement for students enrolled in a grade level below grade three a positive behavior program that meets certain criteria.

(b) Requires each district to develop and implement an early detection and prevention program (program) to address the needs of students enrolled in a grade level below grade three who are experiencing behavioral or disciplinary challenges. Requires the program to be designed to provide appropriate evaluations, services, and supports to the student and the student's family.

(c) Requires that a program under Subsection (a) or (b) include methods for improving in-school suspension by incorporating BMTs that comply with the minimum standards established under Section 37.0182.

(d) Authorizes a district, in developing a program under Subsection (a) or (b), to request assistance from a regional education service center.

(e) Requires each district to submit to TEA certain written procedures to implement and train educational staff for the program.

(f) Authorizes the commissioner to adopt rules as necessary to implement this section.

Sec. 37.023. SANCTIONS FOR CERTAIN VIOLATIONS. Authorizes the commissioner to sanction, in a manner determined appropriate by the commissioner, a district or school that:

(1) permits a student enrolled in a grade level below grade three to be placed in out-of-school suspension unless the suspension is authorized by this subchapter; or

(2) fails to comply with a requirement under Section 37.0183.

SECTION 6. Provides that this Act applies beginning with the 2018-2019 school year.

SECTION 7. Requires each district and school, not later than September 1, 2018, to submit to TEA the procedures required under Section 37.0183, Education Code, as added by this Act.

SECTION 8. Effective date: upon passage or September 1, 2017.