

BILL ANALYSIS

C.S.S.B. 1553
By: Menéndez
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties some public school districts discourage parents from participating in meetings held as part of the special education of their children by issuing the parents criminal trespass warnings that often cannot be appealed under district policy. C.S.S.B. 1553 seeks to address this issue by revising the law relating to the refusal of entry to or ejection from school district property and providing for an appeal process.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 2 of this bill.

ANALYSIS

C.S.S.B. 1553 amends the Education Code to remove the authorization for the board of trustees of a public school district or its authorized representative to refuse to allow a person without legitimate business to enter on property under the board's control and to eject any undesirable person from the property on the person's refusal to leave peaceably on request. The bill instead authorizes a school administrator, school resource officer, or school district peace officer of a district to refuse to allow a person to enter on or to eject a person from property under the district's control if the person refuses to leave peaceably on request and the person poses a substantial risk of harm to any person or the person behaves in a manner that is inappropriate for a school setting and the administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection and the person persists in that behavior.

C.S.S.B. 1553 requires each school district to maintain a record of each verbal warning issued, including the name of the person to whom the warning was issued and the date of issuance. The bill requires a district, at the time a person is refused entry to or ejected from the district's property, to provide to the person written information explaining the appeal process established by rule of the commissioner of education. The bill requires a district, if a parent or guardian of a child enrolled in the district is refused entry to the district's property, to accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's admission, review, and dismissal committee or in the child's team established under the federal Rehabilitation Act of 1973, in accordance with federal law. The bill limits the term of a person's refusal of entry to or ejection from a school district's property to no more than two years. The bill requires a school district to post on the district's website and requires each district campus to post on any website of the campus a notice regarding provisions relating to the refusal of entry, ejection, and

identification of unauthorized persons on district property, including the appeal process, as amended by the bill. The bill requires the commissioner to adopt rules to implement those provisions, including rules establishing a process for a person to appeal to the district board of trustees a decision to refuse the person's entry to or eject the person from the district's property.

C.S.S.B. 1553 requires the student code of conduct established by the board of trustees of an independent public school district to include an explanation of the bill's provisions regarding refusal of entry to or ejection from district property of certain persons, including the appeal process. The bill's provisions apply beginning with the 2017-2018 school year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1553 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.1051 to read as follows:

Sec. 37.1051. BLUE RIBBON PANEL ON TREATMENT OF UNAUTHORIZED PERSONS. (a) The Blue Ribbon Panel on Treatment of Unauthorized Persons is established to identify best practices regarding a school district's refusal of a person's entry to or ejection of a person from district property and the identification of persons on that property as provided by Section 37.105.

(b) The panel consists of members appointed by the commissioner, who must include:

(1) a school administrator;

(2) a member of the board of trustees of a school district;

(3) a classroom teacher;

(4) a representative of a parent-teacher organization; and

(5) a public safety representative.

(c) All meetings of the panel must be open to the public.

(d) The panel shall hold at least one public hearing regarding the treatment of unauthorized persons on school district property.

(e) Not later than August 1, 2018, the panel shall submit to the standing legislative committees with primary jurisdiction over education, and the Texas Education Agency,

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision. *(But see SECTIONS 1 and 2 below.)*

a report on the panel's findings and any recommendations for legislative or other action.

(f) The agency shall make the recommendations of the report available to all school districts and open-enrollment charter schools.

(g) This section expires September 1, 2019.

No equivalent provision. (*But see SECTION 1 above.*)

SECTION 1. 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, is reenacted and 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, disciplinary alternative education program, or vehicle owned or operated by the district;
- (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 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, on school grounds, and on a vehicle owned or operated by the district;
 - (B) disciplining students; and
 - (C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists; and
- (9) include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

No equivalent provision. (*But see SECTION 1 above.*)

SECTION 2. Section 37.105, Education Code, is amended to read as follows:

Sec. 37.105. UNAUTHORIZED PERSONS: REFUSAL OF ENTRY, EJECTION, IDENTIFICATION. (a) A school administrator, school resource officer, or school district peace officer [The board of trustees] of a school district [or its authorized representative] may refuse to allow a person [without legitimate business] to enter on or [property under the board's control and] may eject a [any undesirable] person from [the] property under the district's control if the person refuses [on the person's refusal] to leave peaceably on request and:

- (1) the person poses a substantial risk of harm to any person; or
- (2) the person behaves in a manner that is inappropriate for a school setting and:
 - (A) the administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; and
 - (B) the person persists in that behavior.

(b) Identification may be required of any person on the property.

(c) Each school district shall maintain a record of each verbal warning issued under Subsection (a)(2)(A), including the name of the person to whom the warning was issued and the date of issuance.

(d) At the time a person is refused entry to or ejected from a school district's property under this section, the district shall provide to the person written information explaining the appeal process established under Subsection (h).

(e) If a parent or guardian of a child enrolled in a school district is refused entry to the district's property under this section, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's admission, review, and dismissal committee or in the child's team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

(f) The term of a person's refusal of entry to or ejection from a school district's property under this section may not exceed two years.

(g) A school district shall post on the district's Internet website and each district campus shall post on any Internet website of the campus a notice regarding the provisions of this section, including the appeal process established under Subsection (h).

(h) The commissioner shall adopt rules to implement this section, including rules establishing a process for a person to appeal to the board of trustees of the school district the decision under Subsection (a) to refuse the person's entry to or eject the person from the district's property.

No equivalent provision.

SECTION 2. 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, 2017.

SECTION 3. This Act applies beginning with the 2017-2018 school year.

SECTION 4. Same as engrossed version.