

## **BILL ANALYSIS**

Senate Research Center  
88R22965 GCB-D

H.B. 114  
By: Thompson, Ed (Parker)  
Education  
5/9/2023  
Engrossed

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

School district disciplinary alternative education programs (DAEPs) and county juvenile justice alternative education programs (JJAEPs) are commonly at or over capacity with non-violent student offenders. This creates a situation where a violent offender or problem student has no place to go, which is a worst-case scenario for this type of at-risk youth.

Current law requires that a student face mandatory expulsion for being in possession of, using, or being under the influence of marijuana on or within 300 feet of a school, or while attending a school-related activity on or off property. When enforced, this consequence significantly interrupts a student's academic progress. School administrators who are confident in their ability to intervene and make a correction at the campus level have no choice but to expel.

DAEPs and JJAEPs are being overrun with marijuana offenders who take seats and taxpayer-funded resources away from students who present much more serious danger to their schools and communities.

H.B. 114 replaces the "shall" with a "may" requirement for expulsion for the possession, use, or being under the influence of marijuana. School administrators will be able to consider each on a case-by-case basis. The bill adds a new requirement that a student caught with, using, or under the influence of marijuana must take an approved intervention class.

H.B. 114 also clarifies that school administrators, school resource officers, and district local education agencies have authority to confiscate e-cigarettes and notify local law enforcement.

H.B. 114 amends current law relating to the possession, use, or delivery of marijuana or e-cigarettes on or near public school property or at certain school events.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 37.006, Education Code, by amending Subsection (a) and adding Subsection (d-1), as follows:

(a) Requires a student to be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 (Disciplinary Alternative Education Programs) if the student:

(1) makes no changes to this subdivision; or

(2) commits the following 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)-(B) makes no changes to these paragraphs;

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

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

(ii) makes no changes to this subparagraph;

(C-1) sells, gives, or delivers marihuana to another person; or

(D)-(G) makes no changes to these paragraphs.

(d-1) Authorizes a student, in addition to Subsections (a), (b) (relating to requiring a student to be removed from class and placed in a disciplinary alternative education program if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation against any school employee), (c) (relating to requiring a student to be removed from class and placed in a disciplinary alternative education program based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if certain criteria are met), and (d) (relating to authorizing a student to be removed from class and placed in a disciplinary alternative education program based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if certain criteria are met), to be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student possesses, uses, or is under the influence of marihuana 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. Requires a school district to require a student who engages in conduct described by this subsection, not later than 30 days after the date the conduct occurs, to complete a Texas Education Agency (TEA)-approved drug and alcohol awareness program, which is authorized to be offered in-person or online.

SECTION 2. Amends Section 38.006, Education Code, by adding Subsection (c), as follows:

(c) Authorizes a school administrator, school resource officer, or school district peace officer, if the administrator or officer observes the use, possession, or delivery of an e-cigarette by a student on school property or at a school-related or school-sanctioned activity on or off school property, to:

(1) confiscate and dispose of the e-cigarette; and

(2) notify the appropriate local law enforcement agency of the student's conduct constituting an offense under Section 161.252 (Possession, Purchase, Consumption, or Receipt of Cigarettes, E-Cigarettes, or Tobacco Products by Minors Prohibited), Health and Safety Code, or Section 48.01 (Smoking Tobacco), Penal Code.

SECTION 3. Requires TEA, not later than October 1, 2023, to approve one or more drug or alcohol awareness programs for purposes of Section 37.006(d-1), Education Code, as added by this Act.

SECTION 4. Effective date: September 1, 2023.