

BILL ANALYSIS

C.S.H.B. 114
By: Thompson, Ed
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Alvin ISD in House District 29 reports being overrun with students using e-cigarettes, also known as vape pens, to smoke marihuana on school property and at school activities. Students caught with marihuana face mandatory expulsion to the district's disciplinary alternative education program, which is constantly at or over capacity, and the overflow goes to the county juvenile justice alternative education program, which is also at or over capacity. Both of these programs are designed to provide placement for more violent students or those who present a greater danger to other students. Alvin ISD would like to keep more students in the classroom, to be dealt with through other types of punishment. C.S.H.B. 114 seeks to give public school districts discretion in placing a student who possesses, uses, or is under the influence of marihuana on or near school property or while attending a school activity in a disciplinary alternative education program, but provides for mandatory drug and alcohol awareness programs for such a student.

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

ANALYSIS

C.S.H.B. 114 amends the Education Code to replace the requirement for the removal from class and placement in a disciplinary alternative education program (DAEP) of a student who possesses, uses, or is under the influence of marihuana on or within 300 feet of property of a public school or while attending a school-related or school-sponsored activity on or off school property with an authorization for the classroom removal and DAEP placement of such a student. The bill requires a public school district to require such a student, not later than 30 days after the date the conduct occurs, to complete a drug and alcohol awareness program approved by the Texas Education Agency (TEA), which may be offered in-person or online. The bill requires TEA, not later than October 1, 2023, to approve one or more drug and alcohol awareness programs for this purpose.

C.S.H.B. 114 authorizes a school administrator, school resource officer, or school district peace officer who observes the use, possession, or delivery of an e-cigarette by a student on property of a public school or at a school-related or school-sanctioned activity on or off school property to confiscate and dispose of the e-cigarette and notify the appropriate local law enforcement agency of the student's conduct constituting the offense of possession, purchase, consumption or receipt of e-cigarettes by minors or of smoking tobacco in certain public places.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 114 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision absent from the introduced that replaces the statutory requirement for the removal from class and DAEP placement of a student who possesses, uses, or is under the influence of marihuana on or within 300 feet of property of a public school or at a school-related or school-sanctioned activity on or off school property with an authorization for the classroom removal and DAEP placement of such a student.

The substitute includes requirements absent from the introduced for a public school district to require such a student to complete a drug and alcohol awareness program not later than 30 days after the date the conduct occurs and for TEA to approve one or more such programs not later than October 1, 2023.

The substitute omits the provision in the introduced creating a Class B misdemeanor offense of possession of five or more e-cigarettes on school property.

While both the introduced and the substitute include an authorization for a school administrator, school resource officer, or district peace officer who observes the use or possession 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 confiscate and dispose of the e-cigarette and notify a law enforcement agency of the conduct constituting an offense under certain statutory provisions, the substitute includes a student's delivery of an e-cigarette in that conduct, whereas the introduced did not include that delivery in the conduct.