

House Bill 114
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

(a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 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; 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) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

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

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

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

SENATE VERSION (IE)

SECTION 1. Section 37.006(a), Education Code, is amended to read as follows: [FA1(1)]

(a) Subject to the requirements of Section 37.009(a), a [A] student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student: [FA1(2)]

(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; 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) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person or possesses or uses or is under the influence 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., excluding marihuana, as defined by Section 481.002, Health and Safety Code, or tetrahydrocannabinol, as defined by rule adopted under Section 481.003 of that code; or

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

(C-1) possesses, uses, or is under the influence of, or sells, gives, or delivers to another person marihuana, as defined by Section 481.002, Health and Safety Code, or tetrahydrocannabinol, as defined by rule adopted under Section 481.003 of that code;

(C-2) possesses, uses, sells, gives, or delivers to another

CONFERENCE

House Bill 114
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) 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;

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code; or

(G) engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), Penal Code, against an employee of the school district.

(d-1) In addition to Subsections (a), (b), (c), and (d), a student may 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 marijuana 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 school district shall require a student who engages in conduct described by this subsection, not later than 30 days after the date the conduct occurs, to complete an agency-approved drug and alcohol awareness program, which may be offered in-person or online.

No equivalent provision.

SENATE VERSION (IE)

person an e-cigarette, as defined by Section 161.081, Health and Safety Code; [FA1(3)]

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) 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;

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code; or

(G) engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), Penal Code, against an employee of the school district.

(d-1) [Deleted by FA1(4)]

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

CONFERENCE

House Bill 114
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(a) Except as provided by Subsection (k) and subject to the requirements of Section 37.009(a), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons 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 disabled individual 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. [FA1(5)]

No equivalent provision.

SECTION __. Section 37.008(k), Education Code, is

House Bill 114
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

amended to read as follows:

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs, e-cigarettes, or alcohol as specified under Section 37.006 or 37.007. A disciplinary alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code. [FA1(5)]

No equivalent provision.

SECTION __. Section 37.009, Education Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) If a disciplinary alternative education program is at capacity at the time a campus behavior coordinator is deciding placement under Subsection (a) for a student who engaged in conduct described under Section 37.006(a)(2)(C-1), (C-2), (D), or (E), the student shall be:

(1) placed in in-school suspension; and

(2) if a position becomes available in the program before the expiration of the period of the placement, transferred to the program for the remainder of the period.

(a-2) If a disciplinary alternative education program is at capacity at the time a campus behavior coordinator is deciding placement under Subsection (a) for a student who engaged in conduct described under Section 37.007 that constitutes violent conduct, as defined by commissioner rule, a student who has been placed in the program for conduct described under Section 37.006(a)(2)(C-1), (C-2), (D), or (E):

(1) may be removed from the program and placed in in-school suspension to make a position in the program available for the student who engaged in violent conduct; and

(2) if removed from the program under Subdivision (1) and a

House Bill 114
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

position in the program becomes available before the expiration of the period of the placement, shall be returned to the program for the remainder of the period. [FA1(5)]

SECTION 2. Section 38.006, Education Code, is amended by adding Subsection (c) to read as follows:

(c) If a school administrator, school resource officer, or school district peace 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, the administrator or officer may:

(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, Health and Safety Code, or Section 48.01, Penal Code.

No equivalent provision. SECTION 2. [Deleted by FA1(5)]

SECTION 3. Not later than October 1, 2023, the Texas Education Agency shall approve one or more drug or alcohol awareness programs for purposes of Section 37.006(d-1), Education Code, as added by this Act.

No equivalent provision. SECTION 3. [Deleted by FA1(5)]

SECTION 4. This Act takes effect September 1, 2023.

SECTION 4. Same as House version.