

AN ACT

relating to expulsion from school or placement in a disciplinary alternative education program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 37.006(c) and (d), Education Code, are amended to read as follows:

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a

1 conduct defined as:

2 (A) a felony offense in Title 5, Penal Code; or

3 (B) the felony offense of aggravated robbery
4 under Section 29.03, Penal Code.

5 (d) In addition to Subsections (a), (b), and (c), a student
6 may be removed from class and placed in a disciplinary alternative
7 education program under Section 37.008 based on conduct occurring
8 off campus and while the student is not in attendance at a
9 school-sponsored or school-related activity if:

10 (1) the superintendent or the superintendent's
11 designee has a reasonable belief that the student has engaged in
12 conduct defined as a felony offense other than aggravated robbery
13 under Section 29.03, Penal Code, or those offenses defined in Title
14 5, Penal Code; and

15 (2) the continued presence of the student in the
16 regular classroom threatens the safety of other students or
17 teachers or will be detrimental to the educational process.

18 SECTION 2. Section 37.007(c), Education Code, is amended to
19 read as follows:

20 (c) A student may be expelled if the student, while placed
21 in a disciplinary [an] alternative education program, engages [for
22 disciplinary reasons, continues to engage] in documented serious
23 [or persistent] misbehavior while on the program campus despite
24 documented behavioral interventions [that violates the district's
25 student code of conduct]. For purposes of this subsection,
26 "serious misbehavior" means:

27 (1) deliberate violent behavior that poses a direct

- 1 threat to the health or safety of others;
2 (2) extortion, meaning the gaining of money or other
3 property by force or threat;
4 (3) conduct that constitutes coercion, as defined by
5 Section 1.07, Penal Code; or
6 (4) conduct that constitutes the offense of:
7 (A) public lewdness under Section 21.07, Penal
8 Code;
9 (B) indecent exposure under Section 21.08, Penal
10 Code;
11 (C) criminal mischief under Section 28.03, Penal
12 Code;
13 (D) personal hazing under Section 37.152; or
14 (E) harassment under Section 42.07(a)(1), Penal
15 Code, of a student or district employee.

16 SECTION 3. Section 37.0081(a), Education Code, is amended
17 to read as follows:

18 (a) Subject to Subsection (h), but notwithstanding any
19 other provision of this subchapter, the board of trustees of a
20 school district, or the board's designee, after an opportunity for
21 a hearing may expel a student and elect to place the student in an
22 alternative setting as provided by Subsection (a-1) if:

23 (1) the student:

24 (A) has received deferred prosecution under
25 Section 53.03, Family Code, for conduct defined as:

26 (i) a felony offense in Title 5, Penal Code;

27 or

1 (ii) the felony offense of aggravated
2 robbery under Section 29.03, Penal Code;

3 (B) has been found by a court or jury to have
4 engaged in delinquent conduct under Section 54.03, Family Code, for
5 conduct defined as:

6 (i) a felony offense in Title 5, Penal Code;
7 or

8 (ii) the felony offense of aggravated
9 robbery under Section 29.03, Penal Code;

10 (C) is charged with engaging in conduct defined
11 as:

12 (i) a felony offense in Title 5, Penal Code;
13 or

14 (ii) the felony offense of aggravated
15 robbery under Section 29.03, Penal Code;

16 (D) has been referred to a juvenile court for
17 allegedly engaging in delinquent conduct under Section 54.03,
18 Family Code, for conduct defined as:

19 (i) a felony offense in Title 5, Penal Code;
20 or

21 (ii) the felony offense of aggravated
22 robbery under Section 29.03, Penal Code;

23 (E) has received probation or deferred
24 adjudication for a felony offense under Title 5, Penal Code, or the
25 felony offense of aggravated robbery under Section 29.03, Penal
26 Code;

27 (F) has been convicted of a felony offense under

1 Title 5, Penal Code, or the felony offense of aggravated robbery
2 under Section 29.03, Penal Code; or

3 (G) has been arrested for or charged with a
4 felony offense under Title 5, Penal Code, or the felony offense of
5 aggravated robbery under Section 29.03, Penal Code; and

6 (2) the board or the board's designee determines that
7 the student's presence in the regular classroom:

8 (A) threatens the safety of other students or
9 teachers;

10 (B) will be detrimental to the educational
11 process; or

12 (C) is not in the best interests of the
13 district's students.

14 SECTION 4. Sections 37.011(k) and (l), Education Code, are
15 amended to read as follows:

16 (k) Each school district in a county with a population
17 greater than 125,000 and the county juvenile board shall annually
18 enter into a joint memorandum of understanding that:

19 (1) outlines the responsibilities of the juvenile
20 board concerning the establishment and operation of a juvenile
21 justice alternative education program under this section;

22 (2) defines the amount and conditions on payments from
23 the school district to the juvenile board for students of the school
24 district served in the juvenile justice alternative education
25 program whose placement was not made on the basis of an expulsion
26 required under Section 37.007(a), (d), or (e);

27 (3) establishes [~~identifies those categories of~~

1 ~~conduct]~~ that [~~the school district has defined in its student code~~
2 ~~of conduct as constituting serious or persistent misbehavior for~~
3 ~~which]~~ a student may be placed in the juvenile justice alternative
4 education program if the student engages in serious misbehavior, as
5 defined by Section 37.007(c);

6 (4) identifies and requires a timely placement and
7 specifies a term of placement for expelled students for whom the
8 school district has received a notice under Section 52.041(d),
9 Family Code;

10 (5) establishes services for the transitioning of
11 expelled students to the school district prior to the completion of
12 the student's placement in the juvenile justice alternative
13 education program;

14 (6) establishes a plan that provides transportation
15 services for students placed in the juvenile justice alternative
16 education program;

17 (7) establishes the circumstances and conditions
18 under which a juvenile may be allowed to remain in the juvenile
19 justice alternative education program setting once the juvenile is
20 no longer under juvenile court jurisdiction; and

21 (8) establishes a plan to address special education
22 services required by law.

23 (1) The school district shall be responsible for providing
24 an immediate educational program to students who engage in behavior
25 resulting in expulsion under Section 37.007(b) [~~7(c)~~] and (f) but
26 who are not eligible for admission into the juvenile justice
27 alternative education program in accordance with the memorandum of

1 understanding required under this section. The school district may
2 provide the program or the school district may contract with a
3 county juvenile board, a private provider, or one or more other
4 school districts to provide the program. The memorandum of
5 understanding shall address the circumstances under which such
6 students who continue to engage in serious [~~or persistent~~]
7 misbehavior, as defined by Section 37.007(c), shall be admitted
8 into the juvenile justice alternative education program.

9 SECTION 5. (a) Except as provided by Subsection (b) of this
10 section, this Act applies beginning with the 2011-2012 school year.

11 (b) Sections 37.007(c) and 37.011(k) and (l), Education
12 Code, as amended by this Act, apply beginning with the 2012-2013
13 school year.

14 SECTION 6. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 968 was passed by the House on April 19, 2011, by the following vote: Yeas 141, Nays 4, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 968 on May 26, 2011, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 968 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor