

SUBJECT: Discretionary expulsion for assaults against school employees

COMMITTEE: Public Education — favorable, with amendment

VOTE: 8 ayes — Sadler, Dutton, Dunnam, Grusendorf, Hochberg, Lengefeld, Olivo, Smith
0 nays
1 absent — Oliveira

SENATE VOTE: On final passage, March 3 — 31-0

WITNESSES: None

BACKGROUND: The Safe Schools Act, chapter 37 of the Education Code, requires mandatory expulsion for certain offenses committed by students, while other offenses may result in expulsion at the discretion of the local district. Students that are expelled normally are placed in a juvenile justice alternative education program (JJAEP), which are operated in counties with populations greater than 125,000.

Under current law, students must be expelled for use or possession of an illegal weapon, including a firearm, aggravated assault, arson, murder, indecency with a child, or aggravated kidnapping. A student may be expelled for selling, possessing, or using drugs or alcohol while on school property or at a school-sponsored event or activity.

A student may be removed to a district alternative education program (AEP) for assaults or terroristic threats committed on school property or at a school sponsored event.

DIGEST: SB 260, as amended, would allow for the discretionary expulsion of students who assault a school employee or volunteer. Assault would be limited to the definition in 22.01(a)(1) of the Penal Code, which is intentionally, knowingly, or recklessly causing bodily injury to another. Expulsion would be allowed without regard to whether the incident took place on or off school property or at a school-related event or activity.

SB 260 also would require expulsion for offenses committed in retaliation against a school employee or volunteer that include an element of an offense that would require mandatory expulsion, regardless of whether such offenses occurred on or off school property or at a school-related event or activity.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house and would apply beginning in the 1999-2000 school year.

**SUPPORTERS
SAY:**

SB 260 would help protect classroom teachers and other school employees and volunteers and send a strong message to students that school violence of any degree will be punished. Often violence against teachers can be severe, but when the injury is not permanent, many districts are unable to expel the student but may only remove the student to a district AEP. JJAEPs were designed to educate violent or disruptive students. School districts should be given the authority to expel violent students to these programs regardless of the severity of injuries sustained in an assault.

Many simple assault cases often are a precursor to future offenses that may be more serious. Allowing students to be removed from the school environment at the discretion of the district would allow districts to deal with potential problems before they escalate to more violent offenses.

This bill would not place any mandates on a district to expel students for simple assault. It would allow for local district discretion in deciding whether to remove the student to a district AEP or expel the student to a JJAEP, if one is available. Districts would be able to make the decision on whether such assaults are intentional or are indicative of violent behavior that would justify expulsion.

Making expulsion for simple assault mandatory would present numerous problems. Sometimes assaults can occur intentionally, but not with malice, such as shoving another person in self-defense or hitting a teacher trying to break up a fight between two students. If expulsion were mandatory many of these issues would need to be resolved by adding detailed exceptions in statute. By making it discretionary, districts could resolve such questions at the local level.

Allowing discretionary expulsion of students would not change the funding for these programs. The state is responsible for fully funding education at JJAEPs for any student who was expelled under a mandatory provision, but the district remains responsible for funding the education of students voluntarily expelled to a JJAEP.

SB 260 also would close a loophole that allows serious violent offenses to take place off campus without repercussions. Offenses committed against teachers or other students should result in punishment regardless of where the offense took place. Violent crimes that occur off campus can also be indicative of future violence that could resurface on school grounds or at school-related activities.

OPPONENTS
SAY:

Expanding the list of offenses for which students may be expelled should be done cautiously. Many areas are not served by a JJAEP, and expelled students would be turned out onto the street. While that may be acceptable for felonious offenses, the simple assault offense added by this legislation usually is a misdemeanor and may not be serious enough to warrant expulsion.

OTHER
OPPONENTS
SAY:

In order to ensure a strict zero-tolerance policy for classroom violence against teachers or other school employees, expulsion of students who assault teachers should be mandatory.

NOTES:

The committee amendment to the Senate-passed bill would provide that a district may expel a student for an assault committed in retaliation against a school employee or volunteer.