

SUBJECT: Requiring mandatory expulsion of student for assaulting school employee

COMMITTEE: Public Education — favorable, without amendment

VOTE: 6 ayes — Branch, Dawson, Eissler, Griggs, Hochberg, Madden

0 nays

1 present not voting — Grusendorf

2 absent — Oliveira, Dutton

WITNESSES: For — Kathy Golson, Texas Association of School Boards; Lindsay Gustafson, Texas Classroom Teachers Association; Dwight Harris, Texas Federation of Teachers; Karen Soehnge, Texas Association of School Administrators; Marjorie Wall, Texas State Teachers Association; Jo-Hannah Whitsett, Association of Texas Professional Educators

Against — Pam Uhr, American Civil Liberties Union of Texas

On — David Anderson, Texas Education Agency

BACKGROUND: Education Code, ch. 37, the Safe Schools Act, sets forth conditions for discipline in public schools, including the use of suspensions and mandatory and discretionary expulsions. Each school district adopts a student code of conduct, but the state's "zero-tolerance policy" makes certain offenses subject to mandatory expulsion under state law.

Two settings exist for students who are suspended or expelled. For violations of a district's student code of conduct, a student may be suspended for three days or removed for a longer period of time to an alternative education program (AEP), a program within the school district that can be either on or off campus. Education funding for discretionary expulsions comes from local school districts.

For a major offense such as arson, murder, selling drugs, or aggravated assault, a student must be expelled from the district. In a county with a

population of more than 125,000, students expelled mandatorily are sent to a juvenile justice alternative education program (JJAEP), a cooperative venture between counties and school districts. Smaller counties may elect to have a JJAEP but are not required. Education funding for mandatory expulsions comes from the state.

Penal Code, sec. 22.01(a)(1) defines assault as intentionally, knowingly, or recklessly causing bodily injury to another, including the person's spouse.

DIGEST: Effective with the 2003-04 school year, HB 16 would require that a student be mandatorily expelled to a JJAEP for committing an assault against a school employee on school property or at a school-sponsored activity.

A student would be sent to an AEP if he or she committed an assault against anyone other than a school employee within 300 feet of school property, or while attending a school-sponsored or school-related activity.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS SAY: HB 16 would give districts the disciplinary tools they need to address the growing problem of student assault against teachers and other school employees on school property. During the 2001-02 school year, the Texas Education Agency (TEA) reported 1,151 incidents of simple assault, 67 incidents of aggravated assault, and nine incidents of sexual assault on school district employees or volunteers in Texas. Under current law, students are expelled from school for committing aggravated assault, including assault with a weapon or assault that causes serious bodily harm, but not for a simple assault on an educator.

HB 16 would uphold the principle of zero tolerance for school violence in Texas. Students need to know that they will be expelled if they hit, threaten, or engage in offensive physical contact with a teacher. The bill also would cut down on bullying by putting violent students on notice that they would be removed to an AEP if they assaulted or threatened school volunteers or their fellow students. The intent of the Safe Schools Act is to provide a safe

learning environment for teachers and students, and HB 16 would help to move Texas schools closer to that goal.

HB 16 would help the state retain teachers who need the peace of mind of knowing that they are safe and supported in their jobs. One of the main reasons that teachers leave the teaching profession is because of student discipline problems. Teachers need assurance under the law that if a student assaults them, that student would not remain on campus.

**OPPONENTS
SAY:**

HB 16 would create a stiffer punishment for a student who assaulted a school employee than for one who assaulted a fellow student or school volunteer. Assault is wrong no matter what the reason or who the victim, and the punishment should reflect equal treatment for an equal offense. The Safe Schools Act should protect equally all people who have reason to be on a public school campus or at a public school event. This bill essentially would set up a class system that valued teachers over students.

The bill could result in an increase in placements to JJAEP programs. The Texas Juvenile Probation Commission estimated that it would require an additional \$5.7 million per year to support the additional expulsions. Because mandatory placements in JJAEP are funded as a set-aside from TEA's Foundation School Program, this would be revenue-neutral to the state. However, students expelled to an AEP as the result of assaulting a fellow student or volunteer would have to be funded by local school districts. This could create a financial disincentive for districts to punish students who engaged in bullying against their fellow students.

**OTHER
OPPONENTS
SAY:**

HB 16 is unnecessary. School districts already have broad authority under the laws governing the student code of conduct to remove students from campus if the school board determines that the student should not be in the classroom. Zero tolerance puts undue pressure on administrators to dole out harsher punishments, and it has led some districts to go overboard with mandatory expulsions and suspensions. Creating new mandatory punishments removes discretion from local administrators and is not the way to restore common sense to districts' discipline policies.

NOTES:

A number of similar bills have been filed this session, including:

- HB 1314 by Pitts, which would allow a school board to place a student on deferred adjudication in an AEP (passed by the House on May 10);
- HB 552 by Hegar, which would expel students for dangerous conduct in other school districts (passed by the House on May 9);
- HB 567 by Berman, which would expel a student who assaults, murders, or attempts to murder another student (passed by the House on April 25 and scheduled for a public hearing in the Senate Education Committee on May 13);
- HB 218 by Berman, which would expel a student for assaulting another student (referred to House Public Education Committee); and
- HB 248 by Goolsby, which would send a student to an AEP for bullying (referred to House Public Education Committee).