

## BILL ANALYSIS

Senate Research Center  
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C.S.S.B. 1181  
By: West  
Education  
5/9/2003  
Committee Report (Substituted)

### DIGEST AND PURPOSE

Current law does not require a charter school to operate under Chapters 25 (Admission, Transfers, and Attendance) and 37 (Discipline; Law and Order), Education Code. C.S.S.B. 1181 requires charter schools to operate under the rules of Chapter 25 and 37, Education Code, relating to student discipline and requires the commissioner of education to develop a process to electronically evaluate a school district disciplinary alternative education program.

### RULEMAKING AUTHORITY

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

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.131, as follows:

Sec. 12.131. REMOVAL OF STUDENTS TO DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) Prohibits an open-enrollment charter school from removing a student to a disciplinary alternative education program or expelling a student unless the school complies with the provisions of Subchapter A, Chapter 37, relating to a removal to a disciplinary alternative education program or to expulsion, as applicable.

(b) Prohibits an open-enrollment charter school that elects to expel students from expelling a student for a reason that is not authorized by Section 37.007. Requires an open-enrollment school that elects to remove students to a disciplinary alternative education program to comply with the requirements for the program under Section 37.008. Provides that this section does not require a charter school to employ a certified teacher in a disciplinary alternative education program.

(c) Authorizes an open-enrollment program charter school that enrolls a student who was removed to a disciplinary alternative education program or expelled by another open-enrollment charter school or by a school district to take certain actions.

SECTION 2. Amends Section 25.001(d), Education Code, to specify that the board of trustees (board) is not required to admit a person under this subsection if the person has engaged in conduct or misbehavior within the preceding year that has resulted in removal to a disciplinary alternative education program.

SECTION 3. Amends Section 25.085(d), Education code, to require that unless specifically exempted by Section 25.086, a student enrolled in a school district attend a summer program provided under Section 37.008(1) or Section 37.021. Makes nonsubstantive changes.

SECTION 4. Amends Section 37.001, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the board, with the advice of its district-level committee established under

Subchapter F, Chapter 11, rather than under Section 11.251, to adopt a student code of conduct for the district. Requires the student code, in addition to establishing standards for student conduct, to take certain actions into considerations and specify whether consideration is given to a defense that may be used as a defense to prosecution, including self-defense, as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion; provide guidelines for setting the length of term of a removal under Section 37.006 an expulsion under Section 37.007; and address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student.

(d) Requires a school district, each school year, to provide parents notice of and information regarding the student code of conduct.

SECTION 5. Amends Sections 37.002(c) and (d), Education Code, to make conforming changes.

SECTION 6. Amends Section 37.006, Education Code, by amending Subsections (a), (b), (c), (d), (f), (h), and (l), and adding Subsections (m) and (n), as follows:

(a) Deletes text providing that Section 37.007(a)(3) or (b) is an exception to requiring a student to be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student engages in certain conduct, including engaging in conduct that contains the elements of an offense relating to an abusable volatile chemical, rather than glue or aerosol paint, under Sections 485.031 through 485.034, rather than 485.035, Health and Safety Code. Deletes text referencing volatile chemicals under Chapter 484, Health and Safety Code.

(b)-(l) Makes conforming changes.

(c) Makes conforming changes.

(d) Makes conforming changes.

(m) Provides that removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) Authorizes, but does not require, a principal or other appropriate administrator to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

SECTION 7. Amends Section 37.007(e), Education Code, to require a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, in accordance with 20 U.S.C. Section 7151, rather than with federal law, to expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. Makes conforming and nonsubstantive changes.

SECTION 8. Amends Section 37.008, Education Code, as follows:

Sec. 37.008. New heading: DISCIPLINARY ALTERNATIVE PROGRAMS. (a) Requires each school district to provide a disciplinary alternative program that meets certain requirements. Makes conforming changes.

(b) Makes a conforming change.

(c)-(i) Make conforming changes.

(j) Authorizes a district under certain circumstances to take any action permitted by this subsection.

(j-1) Requires the district, if a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), to reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review, the district makes certain determinations.

(k) Makes a conforming change.

(l) Establishes that a school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. Requires a school district to offer a student removed to a disciplinary alternative education program an opportunity to complete coursework sufficient to allow advancement in grade before the beginning of the next school year. Authorizes the school district to provide the student with an opportunity to complete coursework through any method available, including a correspondence course, distance learning or summer school. Prohibits the district from charging the student for a course provided under this subsection, rather than under Subsection (a).

(m) Makes a conforming change.

(m-1) Requires the commissioner of education (commissioner) to develop a process for evaluating a school district disciplinary alternative education program electronically. Requires the commissioner to develop a system and standard for review of the evaluation or use system already available at the Texas Education Agency (TEA). Requires the system to be designed to identify districts that are at high risk of having inaccurate disciplinary alternative program data or of failing to comply with disciplinary alternative education program requirements and that, as a result, require on-site monitoring of disciplinary alternative education program records or of the disciplinary alternative program. Prohibits the district, if the electronic evaluation of a district's disciplinary alternative education program indicates that a district is not at high risk of having inaccurate disciplinary alternative education records or of failing to comply with the disciplinary alternative education programs requirements, from being subject to on-site monitoring under this subsection. Provides that, if the risk-based system indicates that a district is at high risk of having inaccurate disciplinary alternative program records or of failing to comply with disciplinary alternative education program requirements, the district is entitled to an opportunity to respond to the commissioner determination before on-site monitoring be conducted. Requires the district to respond by the 30th day after the date the commissioner notifies the district of the commissioner's determination. Requires the commissioner, if the district's response does not change the commissioner's determination that the district is at high risk of having inaccurate disciplinary alternative education program records or failing to comply with disciplinary alternative education program requirements or if the district does not respond in a timely manner, to order TEA staff to conduct on-site monitoring of the district's disciplinary alternative program records or of the district's disciplinary alternative program, as appropriate. Requires the commissioner to notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education requirements, or of any recommendations by the commissioner concerning the data. Requires the commissioner, if data reflect that a penal law has been violated, to notify the county attorney, district attorney, or criminal district attorney, as appropriate, and

the attorney general. Provides that the commissioner is entitled to access to all necessary or appropriate district records for the review, analysis, or approval of disciplinary alternative education program data.

(n) Prohibits a school district, under a policy, contract, or other agreement with or for the benefit of a third party, from agreeing to remove a minimum number of students to a disciplinary alternative education program during the course of a school year; or to place students in a disciplinary alternative program for a minimum number of days.

SECTION 9. Amends Section 37.009, Education Code, by amending Subsections (a)-(e),(g), and (h) and adding Subsections (i) and (j), as follows:

(a) Requires the order to give notice of inconsistency, if the period of the placement is inconsistent with the student code of conduct under Section 37.001(a)(5). Prohibits the period of the placement from exceeding one year, unless, after a review, the district makes certain determinations. Makes conforming changes.

(b) Provides that if a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district.

(c) Makes a conforming change.

(d) Requires the order to give notice of the inconsistency, if the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5). Prohibits the period from exceeding one year, unless, after a review, the district makes certain determinations.

(e) Decreases from 120 days to 60 days the interval at which a student placed in a disciplinary alternative education program must be provided a review of the student's status. Makes conforming and nonsubstantive changes.

(g) Makes conforming changes.

(h) Requires the order to give notice of the inconsistency, if the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5). Prohibits the period of an expulsion from exceeding one year unless, after a review, the district makes certain determinations.

(i) Authorizes the principal or the board, if a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, as appropriate, to complete the proceedings and enter an order. Authorizes the district, if the student subsequently enrolls in the district during the same or subsequent school year to enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. Authorizes the next district in which the student enrolls to complete the proceedings and enter an order, if the principal or board fails to enter an order after the student withdraws.

(j) Authorizes, if, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings to be conducted under this section regarding that conduct and authorizes the principal or board, as appropriate, to enter an additional order as a result of those proceedings.

SECTION 10. Amends Section 37.010, Education Code, by amending Subsections (a) and (c)-

(g) and adding Subsection (g-1), follows:

(a) -(f) Make conforming changes.

(g) Authorizes a district under certain conditions to take any action permitted by this subsection. Makes conforming changes.

(g-1) Requires the district, if a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), to reduce the period of expulsion or placement so that the aggregate period does not exceed one year period, unless, after a review, the district makes certain determinations.

SECTION 11. Amends Sections 37.011(a), (b), (h), (k), and (l), and adding Subsection (k-1), Education Code,

(a) Provides that for the purpose of this subchapter, only a disciplinary education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program.

(b) Requires the juvenile court, if a student is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), to take certain actions.

(h) Makes a conforming change.

(k) Makes a conforming change.

(k-1) Provides that, unless otherwise agreed to in writing, an open-enrollment charter school that elects to expel students under Section 12.131 is subject to a memorandum of understanding entered into under Subsection (k) between the school district in which the open-enrolled charter school campus is located and the county juvenile board.

(l) Requires the school district or open-enrolled charter school, as applicable, to be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b),(c), and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section.

SECTION 12. Amends Section 37.012, Education Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007, rather than on the basis of Section 37.007(a), (d), or (e), if the student is served by the juvenile justice alternative education program, to provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2), subject to Section 37.011(n).

(d) Provides that a school district school is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

SECTION 13. Amends Section 37.013, Education Code, to make conforming changes.

SECTION 14. Amends Sections 37.019(a) and (c), Education Code, as follows:

(a) Makes conforming changes.

(c) Requires the reason for emergency placement or expulsion to be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a non-emergency basis. Requires the student to be accorded the appropriate due process as required under Section 37.009, within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion. Provides that if the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability, rather than the requirements of 20 U.S.C. Section 1415(j) and (k).

SECTION 15. Amends Section 37.020, Education Code, as follows:

Sec. 37.020. New heading: **REPORTS RELATING TO EXPULSIONS AND DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM PLACEMENTS.** (a) Requires each school district, in the manner required by the commissioner, to annually report to the commissioner certain information required by this section. Makes conforming changes.

(b) Requires the district to report certain information for each placement in a disciplinary alternative education program established under Section 37.008. Makes conforming changes.

(c) Requires the district, for each expulsion under Section 37.007, to report certain information. Makes conforming changes.

SECTION 16. Amends Subchapter A, Chapter 37, [ Education Code is assumed but not stated], by adding Section 37.021, as follows:

Sec. 37.021. **OPPORTUNITY TO COMPLETE COURSES DURING IN-SCHOOL AND CERTAIN OTHER PLACEMENTS.** (a) Requires the district, if a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative program, to offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of removal.

(b) Authorizes the district to provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

SECTION 17. Amends Section 37.121(b), Education Code, to make conforming changes.

SECTION 18. Amends Section 39.053(e), Education Code, to makes conforming change.

SECTION 19. Amends Article 15.27(b), Code of Criminal Procedure, to require on conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case to orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Provides that an oral notification must be given within 24 hours of the time of the order, rather than determination of guilt, or on the next school day. Makes conforming changes.

SECTION 20. Amends Article 15.27(e)(2), Code of Criminal Procedure, to make a conforming change.

SECTION 21. Amends Article 15.27(g), Code of Criminal Procedure, to make a conforming change.

SECTION 22. Amends Section 164.006, Health and Safety Code, to prohibit a treatment facility or a person employed or under contract with a treatment facility, if acting on behalf of the treatment facility, from taking certain actions. Makes conforming changes.

SECTION 23. Amends Section 464.020, Health and Safety Code, as follows:

Sec. 464.020. New heading: **ADDITIONAL REQUIREMENTS FOR DISCIPLINARY ALTERNATIVE EDUCATION TREATMENT PROGRAMS.** (a)-(d) Make conforming changes.

SECTION 24. (a) Provides that this Act applies beginning with the 2003-2004 school year, except that Section 37.008(a)(8), Education Code, as added by this Act, applies beginning with the 2004-2005 school year.

(b) Provides that the changes in law made by this Act relating to conduct for which a student may be removed to a disciplinary alternative education program or expelled apply to conduct that occurs on or after the effective date of this Act.

(c) Provides that Section 37.008(n), Education Code, as added by this Act, applies only to a contract a school district enters into on or after the effective date of this Act.

SECTION 25. Effective date: upon passage or September 1, 2003.