

BILL ANALYSIS

Senate Research Center
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S.B. 107
By: Whitmire
Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 1995 Texas developed zero tolerance policies that required that students who committed certain serious acts be expelled from schools. The zero tolerance policies left no room for discretion on the part of the schools to look at extenuating circumstance, or allow for alternate resolutions to the behavior. Over the years there have been many situations where student have been expelled from school for acts that were not harmful, but fall under a mandatory removal.

S.B. 107 changes mandatory removal to discretionary removal. Principals and teachers may still utilize discretionary removals for students for all the same acts. It also changes "shall" to "may" in several sections of the Education Code.

As proposed, S.B. 107 amends current law relating to the removal, discipline, or transfer of a public school student.

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 Section 25.0341(b), Education Code, as follows:

(b) Provides that on the request of a parent or other person with authority to act on behalf of a student who is a victim to whom Subsection (a)(2) (regarding a student who is the victim of certain conduct described by this section) applies:

(1) Makes no change to this subdivision; and

(2) if the student does not wish to transfer to another campus or district, the board of trustees may, rather than shall, transfer the student who engaged in the conduct to other institutions set forth.

SECTION 2. Amends Section 37.002(d), Education Code, as follows:

(d) Authorizes, rather than requires, a teacher to remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 (Removal for Certain Conduct) or 37.007 (Expulsion for Serious Offenses). Prohibits the student from returning to that teacher's class without the teacher's consent unless the committee established under Section 37.003 (Placement Review Committee) determines that such placement is the best or only alternative available, if the student has been removed from class. Prohibits the student from returning to the teacher's class without the teacher's consent if the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) (requiring a student to be removed from class and placed in a disciplinary alternative education program if the student commits certain acts set forth) or Section 37.007(a)(2)(A) (requiring a student to be expelled from a school if the student commits certain offenses on school property or while attending a school sponsored event) or (b)(2)(C) (requiring a

student to be expelled from a school if the student commits certain offenses on school property or while attending a school sponsored event) against the teacher. Prohibits a teacher from being coerced to consent. Makes a nonsubstantive change

SECTION 3. Amends Section 37.0051(a), Education Code, as follows:

(a) Authorizes, rather than requires, a student to be removed from class and placed in a disciplinary alternative education program under Section 37.008 (Disciplinary Alternative Education Programs) or a juvenile justice alternative education program under Section 37.011 (Juvenile Justice Alternative Education Program), as provided by Section 25.0341(b)(2) (requiring a student to be transferred to a certain school on the request of a parent under the direction of the board of trustees).

SECTION 4. Amends Sections 37.006(a), (b), (c), and (f), Education Code, as follows:

(a) Authorizes, rather than requires, a student 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 set forth.

(b) Authorizes, rather than requires, a student to be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation under Section 36.06 (Obstruction or Retaliation), Penal Code, against any school employee. Deletes an exception as provided by Section 37.007 (d).

(c) Authorizes, rather than requires, a student to 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, in addition to Subsections (a) and (b), under certain conditions set forth.

(f) Authorizes, rather than requires, a student who is younger than 10 years of age to be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007, subject to Section 37.007(e).

SECTION 5. Amends Sections 37.007(a) and (d) , Education Code, as follows:

(a) Provides that, except as provided by Subsection (k) (prohibiting a student from being expelled under certain circumstances set forth), a student is authorized, rather than required, to 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) uses, exhibits, or possesses certain weapons set forth;

(A) Redesignates Paragraph (B) as Paragraph (A) and make no further change;

(B) Redesignates Paragraph (C) as Paragraph (B) and makes no further change;

Deletes existing Paragraph (A) text listing a firearm as defined by Section 46.01(3), Penal Code. Renumbers remaining paragraphs accordingly.

(2)-(3) Makes no changes to these subdivisions.

(d) Authorizes, rather than requires, a student to be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a) or, if the student engages in other conduct set forth. Makes a conforming change.

SECTION 6. Amends Sections 37.009(a) and (f), Education Code, as follows:

(a) Requires the principal or other appropriate administrator to schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student, not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or is removed or disciplined by the school principal or other appropriate administrator under Section 37.001(a)(2) (requiring the student code of conduct to contain certain information), 37.005 (Suspension), 37.0051 (Placement of Students Committing Sexual Assault Against Another Student), 37.006, or 37.0081 (Expulsion and Placement of Certain Students in Alternative Settings), rather than, 37.001(a)(2), 37.005, 37.0051, or 37.006, or 37.0081. Provides that, at the conference, the student is entitled to written or oral notice of the reasons for the removal or discipline, an explanation of the basis for the removal or discipline, and an opportunity to respond to the reasons for the removal or discipline. Prohibits the students from returning to the regular classroom pending the conference, if removed from class. Makes no further change to this subsection.

(f) Adds a reference to Section 37.0081 and makes no further change to this subsection.

SECTION 7. Amends Section 37.011(b), Education Code, as follows:

(b) Requires the juvenile court, the juvenile board, or the juvenile board's designee if, as appropriate, a student admitted into the public schools of a school district under Section 25.001(b) (authorizing the board of trustees to admit certain individuals set forth to a public school) is expelled from school for conduct, rather than for which expulsion is required, under Section 37.007(a), (d), or (e) to take certain actions set forth.

SECTION 8. Amends Section 37.303, Education Code, to change a reference to shall to may regarding removal of a student from a classroom.

SECTION 9. Amends Section 37.304(a), Education Code, to change a reference to shall to may regarding placement of a student in the appropriate alternative education program.

SECTION 10. Provides that this Act applies beginning with the 2015-2016 school year.

SECTION 11. Effective date: upon passage or September 1, 2015.