

## **BILL ANALYSIS**

C.S.S.B. 149  
By: Seliger  
Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been reported that tens of thousands of students will not graduate from high school this year because of the failure to pass an end-of-course test, including many cases in which a student has completed all other required coursework. Interested parties note that a high school diploma makes it much easier for a student to attend college, join the military, and qualify for jobs and assert that the law should be changed to provide an alternative method for satisfying certain high school graduation requirements. C.S.S.B. 149 seeks to address these issues.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 3 of this bill.

### **ANALYSIS**

C.S.S.B. 149 amends the Education Code to require a school district, for each 11th or 12th grade student who has failed to comply with end-of-course test performance requirements for not more than one course, to establish an individual graduation committee at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. The bill prohibits a student from qualifying to graduate under the bill's provisions before the student's 12th grade year.

C.S.S.B. 149 requires the committee to be composed of the following members: the principal or principal's designee; for the end-of-course test on which the student failed to perform satisfactorily, the teacher of the course; the student's school counselor; and, as applicable, the student's parent or person standing in parental relation to the student, a designated advocate for the student if the student's parent or person standing in parental relation to the student is unable to serve, or the student, at the student's option, if the student is at least 18 years of age or is an emancipated minor. The bill requires the commissioner of education by rule to establish a procedure for appointing an alternative committee member if any such person is unable to serve, including appointing a designated advocate for the student if applicable. The bill requires the superintendent of each school district to establish procedures for the convening of an individual graduation committee. The bill adds a temporary provision, set to expire September 1, 2015, to require the school district that the student attends to establish procedures for appointing alternative committee members for the 2014–2015 school year. The bill requires a school district to provide an appropriate translator, if available and as appropriate, for the student's parent or person standing in parental relation to the student, the student's designated advocate, or the student if such a person is unable to speak English.

C.S.S.B. 149 requires the school district to ensure a good faith effort is made to timely notify, as appropriate, the student's parent or person standing in parental relation to the student, the student's designated advocate, or the student of the time and place for convening the individual graduation committee and the purpose of the committee. The bill sets out notice requirements.

C.S.S.B. 149 requires a student to successfully complete the curriculum requirements of the foundation high school program in order to be eligible to graduate and receive a high school diploma under the bill's provisions. The bill requires a student's individual graduation committee to recommend additional requirements by which the student may qualify to graduate, including additional remediation and, for the end-of-course test on which the student failed to perform satisfactorily, the completion of a project related to the subject area of the course that demonstrates proficiency in the subject area or the preparation of a portfolio of work samples in the subject area of the course. The bill authorizes a student to submit to the individual graduation committee coursework previously completed to satisfy a recommended additional requirement.

C.S.S.B. 149 prescribes the criteria that an individual graduation committee is required to consider in determining whether the student for whom the committee is established is qualified to graduate. The bill authorizes the individual graduation committee, after considering the criteria, to determine that the student is qualified to graduate. The bill authorizes a student for whom an individual graduation committee is established to graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee, the student meets the foundation high school program curriculum requirements, and the committee's vote is unanimous. The bill requires the commissioner by rule to establish a timeline for a committee to make a determination regarding a student's graduation but adds a temporary provision, set to expire September 1, 2015, to require the school district that the student attends to establish a timeline for making such a determination for the 2014–2015 school year. The bill's provisions regarding the determination of an individual graduation committee do not create a property interest in graduation. The bill establishes that the decision of a committee is final and prohibits the decision from being appealed.

C.S.S.B. 149 requires a school district, notwithstanding any action taken by an individual graduation committee, to administer an end-of-course retest to any student who fails to perform satisfactorily on an administration of an end-of-course test. The bill establishes that for purposes of student achievement indicators based on student test performance, a test so administered by a school district is considered a test required for graduation retaken by a student. The bill requires the commissioner to adopt rules as necessary to implement the bill's provisions establishing the individual graduation committee review program not later than the 2015–2016 school year.

C.S.S.B. 149 adds temporary provisions, set to expire September 1, 2018, to require each school district to report through the Public Education Information Management System (PEIMS) the number of district students each school year who are awarded a diploma based on the decision of an individual graduation committee and to report the information not later than December 1 of the school year following the school year the student is awarded a diploma, to require the Texas Education Agency (TEA) to make the information available on TEA's website, and to require the commissioner to adopt rules as necessary to implement these requirements not later than the 2015–2016 school year.

C.S.S.B. 149 subjects an open-enrollment charter school to the requirement to establish an individual graduation committee under the bill's provisions. The bill establishes that a student who, after retaking an end-of-course test for Algebra I or English II, has failed to meet performance requirements but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic test for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course test satisfies the requirement concerning the Algebra I or English II end-of-course test, as applicable.

Except as otherwise provided, the bill's provisions expire September 1, 2017.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 149 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

**SENATE ENGROSSED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 12.104, Education Code, is amended.

SECTION 1. Same as engrossed version.

SECTION 2. Section 28.025, Education Code, is amended.

SECTION 2. Same as engrossed version.

SECTION 3. Subchapter B, Chapter 28, Education Code, is amended by adding Sections 28.0258 and 28.0259 to read as follows:

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Sec. 28.0258. HIGH SCHOOL DIPLOMA AWARDED ON BASIS OF INDIVIDUAL GRADUATION COMMITTEE REVIEW.

Sec. 28.0258. HIGH SCHOOL DIPLOMA AWARDED ON BASIS OF INDIVIDUAL GRADUATION COMMITTEE REVIEW.

(a) This section applies only to an 11th or 12th grade student who has failed to comply with the end-of-course assessment instrument performance requirements under Section 39.025 in not more than two subjects.

(a) This section applies only to an 11th or 12th grade student who has failed to comply with the end-of-course assessment instrument performance requirements under Section 39.025 for not more than one course.

(b) For each student to whom this section applies, the school district that the student attends shall establish an individual graduation committee at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate as provided by this section. A student may not qualify to graduate under this section before the student's 12th grade year. The committee shall be composed of:

(b) For each student to whom this section applies, the school district that the student attends shall establish an individual graduation committee at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate as provided by this section. A student may not qualify to graduate under this section before the student's 12th grade year. The committee shall be composed of:

- (1) the principal or principal's designee;
- (2) for each end-of-course assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;

- (1) the principal or principal's designee;
- (2) for the end-of-course assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;

- (3) the student's school counselor; and
- (4) as applicable:

- (3) the student's school counselor; and
- (4) as applicable:

(A) the student's parent or person standing in parental relation to the student;

(A) the student's parent or person standing in parental relation to the student;

(B) a designated advocate described by Subsection (c) if the person described by

Subsection (c) if the person described by

Paragraph (A) is unable to serve; or  
(C) the student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

(c) The commissioner by rule shall establish a procedure for appointing an alternative committee member if a person described by Subsection (b) is unable to serve, including appointing a designated advocate for the student if the student's parent or person standing in parental relation to the student is unable to serve. The superintendent of each school district shall establish procedures for the convening of an individual graduation committee.

(c-1) Notwithstanding Subsection (c), for the 2014-2015 school year, the school district that the student attends shall establish procedures for appointing alternative committee members as provided by Subsection (c). This subsection expires September 1, 2015.

(c-2) A school district shall provide an appropriate translator, if available, for the appropriate person described under Subsection (b)(4) who is unable to speak English.

(d) The school district shall ensure a good faith effort is made to timely notify the appropriate person described under Subsection (b)(4) of the time and place for convening the individual graduation committee and the purpose of the committee. The notice must be:

(1) provided in person or by regular mail or e-mail;

(2) clear and easy to understand; and

(3) written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person described by Subsection (b)(4).

(e) To be eligible to graduate and receive a high school diploma under this section, a student must successfully complete the curriculum requirements identified by the State Board of Education under Section 28.025(a).

(f) Notwithstanding any other law, a student's individual graduation committee established under this section shall recommend additional requirements by which the student may qualify to graduate, including:

(1) additional remediation; and

(2) for each end-of-course assessment

Paragraph (A) is unable to serve; or  
(C) the student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

(c) The commissioner by rule shall establish a procedure for appointing an alternative committee member if a person described by Subsection (b) is unable to serve, including appointing a designated advocate for the student if the student's parent or person standing in parental relation to the student is unable to serve. The superintendent of each school district shall establish procedures for the convening of an individual graduation committee.

(c-1) Notwithstanding Subsection (c), for the 2014-2015 school year, the school district that the student attends shall establish procedures for appointing alternative committee members as provided by Subsection (c). This subsection expires September 1, 2015.

(c-2) A school district shall provide an appropriate translator, if available, for the appropriate person described under Subsection (b)(4) who is unable to speak English.

(d) The school district shall ensure a good faith effort is made to timely notify the appropriate person described under Subsection (b)(4) of the time and place for convening the individual graduation committee and the purpose of the committee. The notice must be:

(1) provided in person or by regular mail or e-mail;

(2) clear and easy to understand; and

(3) written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person described by Subsection (b)(4).

(e) To be eligible to graduate and receive a high school diploma under this section, a student must successfully complete the curriculum requirements identified by the State Board of Education under Section 28.025(a).

(f) Notwithstanding any other law, a student's individual graduation committee established under this section shall recommend additional requirements by which the student may qualify to graduate, including:

(1) additional remediation; and

(2) for the end-of-course assessment

instrument on which the student failed to perform satisfactorily:

(A) the completion of a project related to the subject area of the course that demonstrates proficiency in the subject area;

or

(B) the preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

(g) For purposes of Subsection (f), a student may submit to the individual graduation committee coursework previously completed to satisfy a recommended additional requirement.

(h) In determining whether a student for whom an individual graduation committee is established is qualified to graduate, the committee shall consider:

(1) the recommendation of the student's teacher in each course for which the student failed to perform satisfactorily on an end-of-course assessment instrument;

(2) the student's grade in each course for which the student failed to perform satisfactorily on an end-of-course assessment instrument;

(3) the student's score on each end-of-course assessment instrument on which the student failed to perform satisfactorily;

(4) the student's performance on any additional requirements recommended by the committee under Subsection (f);

(5) the number of hours of remediation that the student has attended, including:

(A) attendance in a college preparatory course required under Section 39.025(b-2), if applicable; or

(B) attendance in and successful completion of a transitional college course in reading or mathematics;

(6) the student's school attendance rate;

(7) the student's satisfaction of any of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board;

(8) the student's successful completion of a dual credit course in English, mathematics, science, or social studies;

(9) the student's successful completion of a high school pre-advanced placement, advanced placement, or international baccalaureate program course in English, mathematics, science, or social studies;

instrument on which the student failed to perform satisfactorily:

(A) the completion of a project related to the subject area of the course that demonstrates proficiency in the subject area;

or

(B) the preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

(g) For purposes of Subsection (f), a student may submit to the individual graduation committee coursework previously completed to satisfy a recommended additional requirement.

(h) In determining whether a student for whom an individual graduation committee is established is qualified to graduate, the committee shall consider:

(1) the recommendation of the student's teacher in the course for which the student failed to perform satisfactorily on an end-of-course assessment instrument;

(2) the student's grade in the course for which the student failed to perform satisfactorily on an end-of-course assessment instrument;

(3) the student's score on the end-of-course assessment instrument on which the student failed to perform satisfactorily;

(4) the student's performance on any additional requirements recommended by the committee under Subsection (f);

(5) the number of hours of remediation that the student has attended, including:

(A) attendance in a college preparatory course required under Section 39.025(b-2), if applicable; or

(B) attendance in and successful completion of a transitional college course in reading or mathematics;

(6) the student's school attendance rate;

(7) the student's satisfaction of any of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board;

(8) the student's successful completion of a dual credit course in English, mathematics, science, or social studies;

(9) the student's successful completion of a high school pre-advanced placement, advanced placement, or international baccalaureate program course in English, mathematics, science, or social studies;

(10) the student's rating of advanced high on the most recent high school administration of the Texas English Language Proficiency Assessment System;  
(11) the student's score of 50 or greater on a College-Level Examination Program examination;  
(12) the student's score on the ACT, the SAT, or the Armed Services Vocational Aptitude Battery test;  
(13) the student's completion of a sequence of courses under a career and technical education program required to attain an industry-recognized credential or certificate;  
(14) the student's overall preparedness for postsecondary success; and  
(15) any other academic information designated for consideration by the board of trustees of the school district.  
(i) After considering the criteria under Subsection (h), the individual graduation committee may determine that the student is qualified to graduate. Notwithstanding any other law, a student for whom an individual graduation committee is established may graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee under Subsection (f), the student meets the requirements of Subsection (e), and the committee's vote is unanimous. The commissioner by rule shall establish a timeline for making a determination under this subsection. This subsection does not create a property interest in graduation. The decision of a committee is final and may not be appealed.  
(i-1) Notwithstanding Subsection (i), for the 2014-2015 school year, the school district that the student attends shall establish a timeline for making a determination under Subsection (i). This subsection expires September 1, 2015.  
(j) Notwithstanding any action taken by an individual graduation committee under this section, a school district shall administer an end-of-course assessment instrument to any student who fails to perform satisfactorily on an end-of-course assessment instrument as provided by Section 39.025(b). For purposes of Section 39.053(c)(1), an assessment instrument administered as provided by this subsection is considered an assessment instrument required for

(10) the student's rating of advanced high on the most recent high school administration of the Texas English Language Proficiency Assessment System;  
(11) the student's score of 50 or greater on a College-Level Examination Program examination;  
(12) the student's score on the ACT, the SAT, or the Armed Services Vocational Aptitude Battery test;  
(13) the student's completion of a sequence of courses under a career and technical education program required to attain an industry-recognized credential or certificate;  
(14) the student's overall preparedness for postsecondary success; and  
(15) any other academic information designated for consideration by the board of trustees of the school district.  
(i) After considering the criteria under Subsection (h), the individual graduation committee may determine that the student is qualified to graduate. Notwithstanding any other law, a student for whom an individual graduation committee is established may graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee under Subsection (f), the student meets the requirements of Subsection (e), and the committee's vote is unanimous. The commissioner by rule shall establish a timeline for making a determination under this subsection. This subsection does not create a property interest in graduation. The decision of a committee is final and may not be appealed.  
(i-1) Notwithstanding Subsection (i), for the 2014-2015 school year, the school district that the student attends shall establish a timeline for making a determination under Subsection (i). This subsection expires September 1, 2015.  
(j) Notwithstanding any action taken by an individual graduation committee under this section, a school district shall administer an end-of-course assessment instrument to any student who fails to perform satisfactorily on an end-of-course assessment instrument as provided by Section 39.025(b). For purposes of Section 39.053(c)(1), an assessment instrument administered as provided by this subsection is considered an assessment instrument required for

graduation retaken by a student.

(k) The commissioner shall adopt rules as necessary to implement this section not later than the 2015-2016 school year.

(l) This section expires September 1, 2017.

Sec. 28.0259. REPORTING REQUIREMENTS FOR STUDENTS GRADUATING BASED ON INDIVIDUAL GRADUATION COMMITTEE REVIEW PROCESS.

SECTION 4. Section 39.025, Education Code, is amended by adding Subsections (a-2) and (a-3) to read as follows:

(a-2) Notwithstanding Subsection (a), a student who has failed to perform satisfactorily on end-of-course assessment instruments in the manner provided under this section may receive a high school diploma if the student has qualified for graduation under Section 28.0258. This subsection expires September 1, 2017.

(a-3) A student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment instrument satisfies the requirement concerning the Algebra I or English II end-of-course assessment, as applicable. This subsection expires September 1, 2017.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

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(k) The commissioner shall adopt rules as necessary to implement this section not later than the 2015-2016 school year.

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(a-3) A student who, after retaking an end-of-course assessment instrument for Algebra I or English II, has failed to perform satisfactorily as required by Subsection (a), but who receives a score of proficient on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end-of-course assessment instrument satisfies the requirement concerning the Algebra I or English II end-of-course assessment, as applicable. This subsection expires September 1, 2017.

SECTION 5. Same as engrossed version.

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