

BILL ANALYSIS

C.S.H.B. 156
By: Raymond
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties express concern that a student who is placed in an alternative education program due to disciplinary issues suffers disruptions in the student's education progress and achievement and exclusion from meaningful interaction with peers. C.S.H.B. 156 seeks to establish a pilot program for placement of such students in a Junior Reserve Officers' Training Corps program to allow those students to stay on track in educational progress, while also receiving appropriate discipline and instruction.

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 1 of this bill.

ANALYSIS

C.S.H.B. 156 amends the Education Code to establish a pilot program for placement of high school students in Junior Reserve Officers' Training Corps (JROTC) programs as an alternative to placement in disciplinary alternative education programs (DAEP) or juvenile justice alternative education programs (JJAEP). The bill's provisions expire September 1, 2019.

C.S.H.B. 156 limits the application of the pilot program to a student enrolled in a high school designated by the Texas Education Agency (TEA) and located in a municipality that has a population of 200,000 or more, is located on an international border, and has more than 20 percent of the population 18 to 24 years of age who have not graduated from high school, according to certain U.S. Census Bureau estimates. The bill requires TEA to designate, not later than January 1, 2018, not more than two high schools located in such a municipality that offer JROTC programs to participate in the pilot program and requires the commissioner of education by rule to adopt, not later than December 1, 2017, additional criteria that promote positive student educational outcomes for TEA to use in making these designations. The bill establishes that the application of the pilot program to a student enrolled in a TEA-designated high school is not affected if, after such designation, the high school graduation rate in the municipality changes such that the municipality no longer meets the program's graduation rate requirement.

C.S.H.B. 156 authorizes a student who meets the initial eligibility requirements for the pilot program, whose parent or guardian consents to the student's placement in the program, and who is otherwise required or permitted to be placed in a DAEP or a JJAEP to instead be required to participate in a JROTC program. The bill requires such a student to continue to attend the student's regularly assigned classes but authorizes the modification of the student's schedule to the extent necessary to provide for required attendance in the program. The bill sets out the

circumstances under which a student is ineligible to participate in the pilot program and sets out the information that must be specified, provided, and addressed in the student code of conduct for a public school district that includes a school designated by TEA to participate in the pilot program.

C.S.H.B. 156 applies to the pilot program the statutory provision authorizing a superintendent or the superintendent's designee to consider all available information in determining whether, for purposes of placement in a DAEP, there is a reasonable belief that a student has engaged in conduct defined as a Penal Code felony offense. The bill prescribes the procedure for a school district to provide certain notice to a student's parent or guardian, including a noncustodial parent, before a student may be required to participate in a JROTC program under the pilot program, requires a school district board of trustees or the board's designee to set a term for a student's required participation in a JROTC program under the pilot program, and sets out provisions related to the period of required participation.

C.S.H.B. 156 sets out notice requirements for a district board of trustees to inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who is required to participate in a JROTC program under the pilot program and, in the case of a student who transfers to another school district before the expiration of the period of required participation, to inform the receiving district. The bill requires the receiving district to inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. The bill sets out confidentiality requirements for each such educator and authorizes the State Board for Educator Certification to revoke or suspend the certification of an educator who intentionally violates the confidentiality requirements. The bill authorizes a receiving district to continue the JROTC program placement under the terms of the applicable order or to allow the student to attend regular classes without completing the period of required participation and authorizes the placement of a transferring student in a DAEP or a JJAEP for the remainder of the period if the school the student attends in the receiving district does not offer a JROTC program.

C.S.H.B. 156 subjects a student required to participate in a JROTC program under the pilot program to statutory provisions relating to removal from class and placement in a DAEP or a JJAEP if the student, after completion of any required JROTC program participation, engages in subsequent conduct requiring or permitting the student to be removed from class and placed in a DAEP or a JJAEP. The bill subjects statutory provisions relating to a student's removal from class by a teacher, removal from class for certain conduct, and expulsion from school for serious offenses to the bill's provisions governing the pilot program.

C.S.H.B. 156 requires the commissioner, not later than January 1, 2019, to review the pilot program and submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report regarding the progress made by the pilot program in improving student educational outcomes. The bill requires the pilot program to be implemented in each designated high school beginning with the spring semester of the 2017-2018 school year. The bill requires a school district to report annually to the commissioner certain specified information for each placement in a JROTC program under the pilot program.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 156 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 introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 37, Education Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. PILOT PROGRAM IN DESIGNATED HIGH SCHOOLS IN CERTAIN MUNICIPALITIES FOR ALTERNATIVE DISCIPLINARY PLACEMENT: JUNIOR RESERVE OFFICERS' TRAINING CORPS (JROTC)

Sec. 37.031. ESTABLISHMENT OF PILOT PROGRAM.

Sec. 37.032. PARTICIPATION REQUIREMENTS AND EXCEPTIONS.

(a) Notwithstanding any other provision of Subchapter A and except as provided by Subsection (c), a student subject to this subchapter who is otherwise required or permitted under Subchapter A to be placed in a disciplinary alternative education program or juvenile justice alternative education program may, instead of that placement, be required to participate in a Junior Reserve Officers' Training Corps program if the student meets the initial eligibility requirements for the program.

(b) A student required to participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter shall continue to attend the student's regularly assigned classes, except that the student's schedule may be modified to the extent necessary to provide for required attendance in the program.

(c) This subchapter does not apply if:

(1) the student is removed from class and placed into another appropriate classroom or into in-school suspension under Section 37.002 or is suspended under Section 37.005;

(2) the student engages in conduct described by Section 37.006(a)(2)(B) or Section 37.007(a)(2) or (b)(2)(C);

(3) the continued presence of the student in the regular classroom threatens the safety of other students or teachers; or

(4) the student engages in conduct for which the student is required to be expelled from

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 37, Education Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. PILOT PROGRAM IN DESIGNATED HIGH SCHOOLS IN CERTAIN MUNICIPALITIES FOR ALTERNATIVE DISCIPLINARY PLACEMENT: JUNIOR RESERVE OFFICERS' TRAINING CORPS (JROTC)

Sec. 37.031. ESTABLISHMENT OF PILOT PROGRAM.

Sec. 37.032. PARTICIPATION REQUIREMENTS AND EXCEPTIONS.

(a) Notwithstanding any other provision of Subchapter A and except as provided by Subsection (c), a student subject to this subchapter who is otherwise required or permitted under Subchapter A to be placed in a disciplinary alternative education program or juvenile justice alternative education program may, instead of that placement, be required to participate in a Junior Reserve Officers' Training Corps program if:

(1) the student meets the initial eligibility requirements for the program; and

(2) the student's parent or guardian consents to the student's placement in the program.

(b) A student required to participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter shall continue to attend the student's regularly assigned classes, except that the student's schedule may be modified to the extent necessary to provide for required attendance in the program.

(c) This subchapter does not apply if:

(1) the student is removed from class and placed into another appropriate classroom or into in-school suspension under Section 37.002 or is suspended under Section 37.005;

(2) the student engages in conduct described by Section 37.006(a)(2)(B) or Section 37.007(a)(2) or (b)(2)(C);

(3) the continued presence of the student in the regular classroom threatens the safety of other students or teachers; or

(4) the student engages in conduct for which the student is required to be expelled from

the student's regular campus under federal law.

Sec. 37.033. STUDENT CODE OF CONDUCT. (a) In addition to the requirements for the student code of conduct under Section 37.001, the student code of conduct for a school district that includes a school designated under Section 37.031(c) must, consistent with this subchapter and as applied to the designated school:

(1) specify conditions that authorize a principal or other appropriate administrator to require a student to participate in a Junior Reserve Officers' Training Corps program;

(2) specify that consideration will be given, as a factor in each decision concerning participation in a Junior Reserve Officers' Training Corps program, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(3) provide guidelines that promote positive student educational outcomes for determining placement in a Junior Reserve Officers' Training Corps program as an alternative to placement in a disciplinary alternative education program or juvenile justice alternative education program;

(4) provide guidelines for setting the length of a term of required participation in a Junior Reserve Officers' Training Corps program; and

(5) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in required participation in a Junior Reserve Officers' Training Corps program.

(b) This section does not require the student code of conduct to specify a minimum term of required participation in a Junior Reserve Officers' Training Corps program.

Sec. 37.034. DETERMINATION

the student's regular campus under federal law.

Sec. 37.033. STUDENT CODE OF CONDUCT. (a) In addition to the requirements for the student code of conduct under Section 37.001, the student code of conduct for a school district that includes a school designated under Section 37.031(c) must, consistent with this subchapter and as applied to the designated school:

(1) specify conditions that authorize a principal or other appropriate administrator to require a student to participate in a Junior Reserve Officers' Training Corps program, including the condition that the student's parent or guardian must consent to the student's placement in the program;

(2) specify that consideration will be given, as a factor in each decision concerning participation in a Junior Reserve Officers' Training Corps program, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(3) provide guidelines that promote positive student educational outcomes for determining placement in a Junior Reserve Officers' Training Corps program as an alternative to placement in a disciplinary alternative education program or juvenile justice alternative education program;

(4) provide guidelines for setting the length of a term of required participation in a Junior Reserve Officers' Training Corps program; and

(5) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that requires the consent of the student's parent or guardian for the student to be placed in a Junior Reserve Officers' Training Corps program as an alternative to placement in a disciplinary alternative education program or a juvenile justice alternative education program.

(b) This section does not require the student code of conduct to specify a minimum term of required participation in a Junior Reserve Officers' Training Corps program.

Sec. 37.034. DETERMINATION

REGARDING CERTAIN CONDUCT.

Sec. 37.035. NOTICE TO PARENTS. (a) Not later than the third class day after the date a student is required to participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter, the school district shall notify the student's parent or guardian of the student's placement. The notice must include the reason for the placement.

(b) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to the student's placement as authorized under this subchapter that is generally provided by the district or school to a student's parent or guardian.

Sec. 37.036. TERM OF PLACEMENT.

Sec. 37.037. APPEAL. Notwithstanding Section 7.057(e), the decision to require a student to participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter may be appealed by the student or the student's parent or guardian as provided by Sections 7.057(b), (c), (d), and (f).

Sec. 37.038. NOTICE TO EDUCATORS.

Sec. 37.039. TRANSFER OF STUDENT UNDER PILOT PROGRAM.

Sec. 37.040. PROCEDURE FOR ADDRESSING SUBSEQUENT CONDUCT AFTER PROGRAM PARTICIPATION.

Sec. 37.041. APPLICABILITY TO SUBCHAPTER A.

Sec. 37.042. REVIEW OF PROGRAM; REPORT.

Sec. 37.043. EXPIRATION.

SECTION 2. Section 37.020, Education Code, is amended.

REGARDING CERTAIN CONDUCT.

Sec. 37.035. NOTICE TO PARENTS. (a) Before a student may be required to participate in a Junior Reserve Officers' Training Corps program as authorized under this subchapter, the school district shall notify the student's parent or guardian of the student's proposed placement and request and obtain consent for the student's placement in the program. The notice must include the reason for the proposed placement.

(b) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to the student's placement as authorized under this subchapter that is generally provided by the district or school to a student's parent or guardian.

Sec. 37.036. TERM OF PLACEMENT.

No equivalent provision.

Sec. 37.037. Substantially the same as introduced version.

Sec. 37.038. TRANSFER OF STUDENT UNDER PILOT PROGRAM.

Sec. 37.039. PROCEDURE FOR ADDRESSING SUBSEQUENT CONDUCT AFTER PROGRAM PARTICIPATION.

Sec. 37.040. APPLICABILITY TO SUBCHAPTER A.

Sec. 37.041. REVIEW OF PROGRAM; REPORT.

Sec. 37.042. EXPIRATION.

SECTION 2. Substantially the same as introduced version.

SECTION 3. (a) Not later than December 1, 2017, the commissioner of education shall adopt rules for the Texas Education Agency to use to designate public high schools to participate in the pilot program established under Subchapter A-1, Chapter 37, Education Code, as added by this Act.

(b) Not later than January 1, 2018, the Texas Education Agency shall designate not more than two public high schools to participate in the pilot program established under Subchapter A-1, Chapter 37, Education Code, as added by this Act.

(c) The pilot program established under Subchapter A-1, Chapter 37, Education Code, as added by this Act, shall be implemented in each high school designated under that subchapter beginning with the spring semester of the 2017-2018 school year.

SECTION 4. 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, 2017.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.