

SUBJECT: Expelling students for assault of school employees

COMMITTEE: Public Education — committee substitute recommended

VOTE: 8 ayes — Grusendorf, Branch, Delisi, Dutton, Eissler, Hochberg, Keffer, Mowery

0 nays

1 absent — Oliveira

WITNESSES: For — Amy Beneski, Texas Association of School Administrators; Kathy Golson, Texas Association of School Boards; Lonnie Hollingsworth, Texas Classroom Teachers Association; Jeanette Rodriguez, Texas State Teachers Association; Jo-Hannah Whitsett, Association of Texas Professional Educators

Against — Pam Uhr, ACLU

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.

For violations of a district’s student code of conduct, a student may be suspended for up to 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.

For a major offense such as arson, selling drugs, aggravated assault, or murder, 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.

A student placed in an AEP remains in the school district’s count of average daily attendance, and the district continues to receive funding for

this student through the Foundation School Program. State funding for JJAEPs is provided through set-asides in the Foundation School Program, separate from the funding received by school districts for students in average daily attendance.

Penal Code, sec. 22.01(a)(1) defines assault as intentionally, knowingly, or recklessly causing bodily injury to another.

DIGEST:

Beginning with the 2005-06 school year, CSHB 11 would require that a student be expelled for knowingly or intentionally committing an assault against a school employee on school property or at a school-sponsored activity.

The bill also would require that a student be suspended and placed in an AEP if he or she engaged in reckless conduct that resulted in an assault against anyone other than a school employee within 300 feet of school property or while attending a 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, 2005.

**SUPPORTERS
SAY:**

CSHB 11 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 2003-04 school year, the Texas Education Agency reported that 1,221 students committed assaults against school employees. 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.

CSHB 11 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 CSHB 11 would help to move Texas schools closer to that goal.

CSHB 11 would affirm to teachers that they are safe and supported in their jobs. One of the main reasons teachers leave the teaching profession is because of student discipline problems. Teachers need the peace of mind of knowing that students who assault them would be removed from campus by law.

OPPONENTS
SAY:

CSHB 11 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 would reduce funding to school districts by increasing the number of mandatory expulsions. The Legislative Budget Board (LBB) estimates that districts would lose \$2.8 million per year in funding for students who were expelled and thus removed from the district's count of students in average daily attendance. The LBB also estimates that it would cost \$4.2 million per year to support students placed in JJAEPs under this bill. While current costs would be covered by existing set-asides in the Foundation School Program, the added cost of educating more students in JJAEPs eventually would require the state to increase JJAEP set-asides.

OTHER
OPPONENTS
SAY:

CSHB 11 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:

The bill as introduced would not have required the suspension of a student whose reckless conduct resulted in an assault on someone other than a school employee on school property. The original bill also would have required the expulsion of a student who *recklessly*, knowingly, or intentionally committed an assault against a school employee.

According to the fiscal note, the state would gain \$5.6 million per biennium from the reduction in payments to school districts through the

Foundation School Program due to the expulsion of approximately 1,200 students.