

- SUBJECT:** Placement of students expelled for felony offenses
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 5 ayes — Eissler, Hochberg, Mowery, Olivo, Patrick
0 nays
4 absent — Zedler, Branch, Delisi, Dutton
- WITNESSES:** For — Robby Collins, Dallas ISD, Jerry McCullough, Arlington ISD, David Tyson, Jr., Texas Association of School Boards (*Registered, but did not testify*); Amy Beneski, Texas Association of School Administrators; Dwight Harris, Texas Federation of Teachers; Lonnie Hollingsworth, Texas Classroom Teachers' Association; Cindy Kirby, Texas Association of Secondary School Principals; Elena Lincoln, Association of Texas Professional Educators; Ken McGraw, Texas Association of Community Schools; Kristen Slaughter, Kyle Ward, Texas Parent Teacher Association
- Against — Richard LaVallo, Advocacy, Inc.; Deborah Fowler, Texas Appleaseed; Benny Hernandez, ACLU-Texas
- BACKGROUND:** Education Code, Chapter 37, requires school districts to provide a disciplinary alternative education program (DAEP) for students removed from class for certain conduct. The DAEP must be in a setting other than the student's classroom and located on or off a regular school campus.
- In a county with a population of more than 125,000, students who are expelled from schools for serious offenses must be placed in a Juvenile Justice Alternative Education Program (JJAEP).
- Under Education Code, sec. 37.0081, a school district, or the board's designee, can place a student in a DAEP if the student has received deferred prosecution or been found by a jury to have committed a felony offense in Title 5, Penal Code, which include murder, kidnapping, and other offenses against people. The school board also must determine that the student's presence threatens the safety of other students, would be detrimental to the educational process, or is not in the best of the student's interest.

The board can order placement in a DAEP regardless of the date on or location in which the student's conduct occurred, whether the conduct occurred while the student was enrolled in the district, or whether the student had successfully completed any court disposition requirements in connection with the conduct.

Education Code, sec. 37.007, identifies conduct for which a student can or must be expelled from a school if the student engaged in the conduct, while on school property or attending a school event on or off of school property. The conduct for which a student must be expelled includes possession of a firearm or other weapons, aggravated sexual assault, or murder or other crimes against persons.

DIGEST:

CSHB 2532 would amend Education Code, sec. 37.0081, to allow the school board or its designee to expel a student and place the student in either a JJAEP or a DAEP if the student was charged with committing a felony offense in Title 5, Penal Code, or had been referred to a juvenile court for allegedly engaging in delinquent conduct under section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code.

A student expelled and ordered placed in an alternative setting would be subject to that placement until graduating from high school, completing the term of placement or being assigned to another high school, or having the charges dismissed or reduced to a misdemeanor offense.

These provisions would continue to apply to the student if the student transferred to another school district in the state.

To the extent of a conflict between Education Code, sec. 37.007, sec. 37.007 would prevail.

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, 2007.

**SUPPORTERS
SAY:**

CSHB 2532 would ensure that students are able to learn in a safe environment without fear of intimidation from students who have been charged with such felony offenses as murder or attempted manslaughter, regardless of whether this behavior occurred on or off campus. Under current law, students accused of such crimes can return to school and

attend classes without being placed in an alternative learning environment if the alleged felony did not occur on school grounds or at a school event.

Students charged with these crimes should not be in the same learning environment as other students, regardless of where the behavior occurred. These students would still receive an education in a JJAEP, which is a more appropriate environment for students accused or found guilty of murder or other serious crimes.

The bill would carry out a recommendation in the 2006 Interim Report of the House Corrections Committee to amend Chapter 37 of the Education Code so that violent offenders are not commingling with non-violent offenders.

**OPPONENTS
SAY:**

CSHB 2532 would allow students to be expelled and placed in JJAEPs even if they have only been accused of a felony offense. Placing these students in a JJAEP before they have been convicted of a crime would be a serious violation of the student's rights and the presumption of innocence.