

1 AN ACT  
2 relating to expulsion from school or placement in a disciplinary  
3 alternative education program.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 37.006(c) and (d), Education Code, are  
6 amended to read as follows:

7 (c) In addition to Subsections (a) and (b), a student shall  
8 be removed from class and placed in a disciplinary alternative  
9 education program under Section 37.008 based on conduct occurring  
10 off campus and while the student is not in attendance at a  
11 school-sponsored or school-related activity if:

12 (1) the student receives deferred prosecution under  
13 Section 53.03, Family Code, for conduct defined as:

- 14 (A) a felony offense in Title 5, Penal Code; or  
15 (B) the felony offense of aggravated robbery  
16 under Section 29.03, Penal Code;

17 (2) a court or jury finds that the student has engaged  
18 in delinquent conduct under Section 54.03, Family Code, for conduct  
19 defined as:

- 20 (A) a felony offense in Title 5, Penal Code; or  
21 (B) the felony offense of aggravated robbery  
22 under Section 29.03, Penal Code; or

23 (3) the superintendent or the superintendent's  
24 designee has a reasonable belief that the student has engaged in a

1 conduct defined as:

2 (A) a felony offense in Title 5, Penal Code; or

3 (B) the felony offense of aggravated robbery  
4 under Section 29.03, Penal Code.

5 (d) In addition to Subsections (a), (b), and (c), a student  
6 may be removed from class and placed in a disciplinary alternative  
7 education program under Section 37.008 based on conduct occurring  
8 off campus and while the student is not in attendance at a  
9 school-sponsored or school-related activity if:

10 (1) the superintendent or the superintendent's  
11 designee has a reasonable belief that the student has engaged in  
12 conduct defined as a felony offense other than aggravated robbery  
13 under Section 29.03, Penal Code, or those offenses defined in Title  
14 5, Penal Code; and

15 (2) the continued presence of the student in the  
16 regular classroom threatens the safety of other students or  
17 teachers or will be detrimental to the educational process.

18 SECTION 2. Section 37.007(c), Education Code, is amended to  
19 read as follows:

20 (c) A student may be expelled if the student, while placed  
21 in a disciplinary ~~[an]~~ alternative education program, engages ~~[for~~  
22 ~~disciplinary reasons, continues to engage]~~ in documented serious  
23 ~~[or persistent]~~ misbehavior while on the program campus despite  
24 documented behavioral interventions ~~[that violates the district's~~  
25 ~~student code of conduct]~~. For purposes of this subsection,  
26 "serious misbehavior" means:

27 (1) deliberate violent behavior that poses a direct

1 threat to the health or safety of others;

2 (2) extortion, meaning the gaining of money or other  
3 property by force or threat;

4 (3) conduct that constitutes coercion, as defined by  
5 Section 1.07, Penal Code; or

6 (4) conduct that constitutes the offense of:

7 (A) public lewdness under Section 21.07, Penal  
8 Code;

9 (B) indecent exposure under Section 21.08, Penal  
10 Code;

11 (C) criminal mischief under Section 28.03, Penal  
12 Code;

13 (D) personal hazing under Section 37.152; or

14 (E) harassment under Section 42.07(a)(1), Penal  
15 Code, of a student or district employee.

16 SECTION 3. Section 37.0081(a), Education Code, is amended  
17 to read as follows:

18 (a) Subject to Subsection (h), but notwithstanding any  
19 other provision of this subchapter, the board of trustees of a  
20 school district, or the board's designee, after an opportunity for  
21 a hearing may expel a student and elect to place the student in an  
22 alternative setting as provided by Subsection (a-1) if:

23 (1) the student:

24 (A) has received deferred prosecution under  
25 Section 53.03, Family Code, for conduct defined as:

26 (i) a felony offense in Title 5, Penal Code;

27 or

1                    (ii) the felony offense of aggravated  
2 robbery under Section 29.03, Penal Code;

3                    (B) has been found by a court or jury to have  
4 engaged in delinquent conduct under Section 54.03, Family Code, for  
5 conduct defined as:

6                    (i) a felony offense in Title 5, Penal Code;

7 or

8                    (ii) the felony offense of aggravated  
9 robbery under Section 29.03, Penal Code;

10                    (C) is charged with engaging in conduct defined  
11 as:

12                    (i) a felony offense in Title 5, Penal Code;

13 or

14                    (ii) the felony offense of aggravated  
15 robbery under Section 29.03, Penal Code;

16                    (D) has been referred to a juvenile court for  
17 allegedly engaging in delinquent conduct under Section 54.03,  
18 Family Code, for conduct defined as:

19                    (i) a felony offense in Title 5, Penal Code;

20 or

21                    (ii) the felony offense of aggravated  
22 robbery under Section 29.03, Penal Code;

23                    (E) has received probation or deferred  
24 adjudication for a felony offense under Title 5, Penal Code, or the  
25 felony offense of aggravated robbery under Section 29.03, Penal  
26 Code;

27                    (F) has been convicted of a felony offense under

1 Title 5, Penal Code, or the felony offense of aggravated robbery  
2 under Section 29.03, Penal Code; or

3 (G) has been arrested for or charged with a  
4 felony offense under Title 5, Penal Code, or the felony offense of  
5 aggravated robbery under Section 29.03, Penal Code; and

6 (2) the board or the board's designee determines that  
7 the student's presence in the regular classroom:

8 (A) threatens the safety of other students or  
9 teachers;

10 (B) will be detrimental to the educational  
11 process; or

12 (C) is not in the best interests of the  
13 district's students.

14 SECTION 4. Sections 37.011(k) and (l), Education Code, are  
15 amended to read as follows:

16 (k) Each school district in a county with a population  
17 greater than 125,000 and the county juvenile board shall annually  
18 enter into a joint memorandum of understanding that:

19 (1) outlines the responsibilities of the juvenile  
20 board concerning the establishment and operation of a juvenile  
21 justice alternative education program under this section;

22 (2) defines the amount and conditions on payments from  
23 the school district to the juvenile board for students of the school  
24 district served in the juvenile justice alternative education  
25 program whose placement was not made on the basis of an expulsion  
26 required under Section 37.007(a), (d), or (e);

27 (3) establishes [~~identifies those categories of~~

1 ~~conduct~~] that [~~the school district has defined in its student code~~  
2 ~~of conduct as constituting serious or persistent misbehavior for~~  
3 ~~which~~] a student may be placed in the juvenile justice alternative  
4 education program if the student engages in serious misbehavior, as  
5 defined by Section 37.007(c);

6 (4) identifies and requires a timely placement and  
7 specifies a term of placement for expelled students for whom the  
8 school district has received a notice under Section 52.041(d),  
9 Family Code;

10 (5) establishes services for the transitioning of  
11 expelled students to the school district prior to the completion of  
12 the student's placement in the juvenile justice alternative  
13 education program;

14 (6) establishes a plan that provides transportation  
15 services for students placed in the juvenile justice alternative  
16 education program;

17 (7) establishes the circumstances and conditions  
18 under which a juvenile may be allowed to remain in the juvenile  
19 justice alternative education program setting once the juvenile is  
20 no longer under juvenile court jurisdiction; and

21 (8) establishes a plan to address special education  
22 services required by law.

23 (1) The school district shall be responsible for providing  
24 an immediate educational program to students who engage in behavior  
25 resulting in expulsion under Section 37.007(b) [~~(e)~~] and (f) but  
26 who are not eligible for admission into the juvenile justice  
27 alternative education program in accordance with the memorandum of

1 understanding required under this section. The school district may  
2 provide the program or the school district may contract with a  
3 county juvenile board, a private provider, or one or more other  
4 school districts to provide the program. The memorandum of  
5 understanding shall address the circumstances under which such  
6 students who continue to engage in serious [~~or persistent~~]  
7 misbehavior, as defined by Section 37.007(c), shall be admitted  
8 into the juvenile justice alternative education program.

9 SECTION 5. (a) Except as provided by Subsection (b) of this  
10 section, this Act applies beginning with the 2011-2012 school year.

11 (b) Sections 37.007(c) and 37.011(k) and (l), Education  
12 Code, as amended by this Act, apply beginning with the 2012-2013  
13 school year.

14 SECTION 6. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2011.

David Newkum

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 968 was passed by the House on April 19, 2011, by the following vote: Yeas 141, Nays 4, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 968 on May 26, 2011, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 968 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 31, Nays 0.

Patsy Spaw

Secretary of the Senate

APPROVED: 17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

4pm O'CLOCK

JUN 17 2011

Debra Edwards

Secretary of State