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HB 968: Ensure Texas Students Don't Face Unwarranted Expulsions

Under the Texas Education Code, children can be expelled from Disciplinary Alternative Education Programs (DAEP) to Juvenile Justice Alternative Education Programs (JJAEP) or to the street for “serious or persistent misbehavior,” an undefined offense. HB 968 would provide clear guidelines to school officials to help ensure that students who don't deserve to be expelled are not expelled.

The offense of “serious or persistent misbehavior” is undefined and ambiguous. The Texas Education Code mandates expulsion for certain well defined offenses, such as possession of a firearm or aggravated assault.¹ In addition, the Education Code creates a number of well defined discretionary expulsion offenses, such as assault or distribution of a controlled substance.² Unfortunately, the Education Code also permits the expulsion of students from DAEPs for undefined “serious or persistent misbehavior.”³ By providing school officials with a clear definition, legislators will bring clarity to the Education Code and help ensure that students across Texas do not face unwarranted expulsions.

Current law results in punishments that disproportionately affect special-education and minority children. During the 2008-2009 school year, discretionary “serious or persistent misbehavior” made up one third of all statewide expulsions. In some school districts, African American children are expelled for “serious or persistent misbehavior” at rates 2 to 54 times higher than children of other races or ethnicities.⁴ By requiring school officials to first document clearly defined “serious and persistent misbehavior,” the legislature would take steps to ensure that special-education and minority children do not face disproportionate punishment.

Expulsions for “serious or persistent misbehavior” exacerbates Texas dropout crisis, further undermining Texas' economic future. As studies have shown, a student's disciplinary history is a major indicator in determining a student's likelihood of dropout.⁵ In addition to undermining the child's future, dropout also negatively impacts Texas' economic future. As a recent study from the Texas A&M Bush School of Government and Public Service estimated, “[t]he total of the predicted cost [to Texas] of dropouts from the cohort of the senior class of 2012 is between \$6.0 billion and \$10.7 billion” over their lifetimes.⁶ Texas cannot afford to wait.

¹ TEX. EDUC. CODE § 37.007(a).

² TEX. EDUC. CODE § 37.007(b).

³ TEX. EDUC. CODE § 37.007(c).

⁴ DEBORAH FOWLER, ET AL., TEXAS' SCHOOL-TO-PRISON PIPELINE — SCHOOL EXPULSION, THE PATH FROM LOCKOUT TO DROPOUT, TEXAS APPLESEED (EXECUTIVE SUMMARY) 4 (Apr. 2010).

⁵ DEBORAH FOWLER, ET AL., TEXAS APPLESEED, TEXAS SCHOOL-TO-PRISON PIPELINE; DROPOUT TO INCARCERATION 33 (Oct. 2007).

⁶ ROMAN ALVAREZ, ET AL., THE ABCD'S OF TEXAS EDUCATION: ASSESSING THE BENEFITS AND COSTS OF REDUCING THE DROPOUT RATE 57 (MAY 2009).