

By: Burns

H.B. No. 822

A BILL TO BE ENTITLED

AN ACT

relating to requiring the expulsion of a public school student who engages in certain conduct that constitutes the felony offense of terroristic threat.

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

SECTION 1. Sections 37.007(a), (b), and (i), Education Code, are amended to read as follows:

(a) Except as provided by Subsection (k), a student shall be expelled from a school if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of terroristic threat under Section 22.07, Penal Code, if the conduct is punishable as a felony;  
or

(2) while [7] on school property or while attending a school-sponsored or school-related activity on or off of school property:

(A) [~~1~~] engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code;

(B) [~~2~~] engages in conduct that contains the elements of the offense of:

(i) [~~A~~] aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code,

1 or aggravated sexual assault under Section 22.021, Penal Code;

2 (ii) [~~(B)~~] arson under Section 28.02, Penal  
3 Code;

4 (iii) [~~(C)~~] murder under Section 19.02,  
5 Penal Code, capital murder under Section 19.03, Penal Code, or  
6 criminal attempt, under Section 15.01, Penal Code, to commit murder  
7 or capital murder;

8 (iv) [~~(D)~~] indecency with a child under  
9 Section 21.11, Penal Code;

10 (v) [~~(E)~~] aggravated kidnapping under  
11 Section 20.04, Penal Code;

12 (vi) [~~(F)~~] aggravated robbery under Section  
13 29.03, Penal Code;

14 (vii) [~~(G)~~] manslaughter under Section  
15 19.04, Penal Code;

16 (viii) [~~(H)~~] criminally negligent homicide  
17 under Section 19.05, Penal Code; or

18 (ix) [~~(I)~~] continuous sexual abuse of young  
19 child or children under Section 21.02, Penal Code; or

20 (C) [~~(3)~~] engages in conduct specified by  
21 Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a  
22 felony.

23 (b) A student may be expelled if the student:

24 (1) engages in conduct involving a public school that  
25 contains the elements of the offense of:

26 (A) false alarm or report under Section 42.06,  
27 Penal Code; [7] or

1                    (B) terroristic threat under Section 22.07,  
2 Penal Code, if the conduct is punishable as a misdemeanor;

3                    (2) while on or within 300 feet of school property, as  
4 measured from any point on the school's real property boundary  
5 line, or while attending a school-sponsored or school-related  
6 activity on or off of school property:

7                    (A) sells, gives, or delivers to another person  
8 or possesses, uses, or is under the influence of any amount of:

9                    (i) marihuana or a controlled substance, as  
10 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.  
11 Section 801 et seq.;

12                    (ii) a dangerous drug, as defined by  
13 Chapter 483, Health and Safety Code; or

14                    (iii) an alcoholic beverage, as defined by  
15 Section 1.04, Alcoholic Beverage Code;

16                    (B) engages in conduct that contains the elements  
17 of an offense relating to an abusable volatile chemical under  
18 Sections 485.031 through 485.034, Health and Safety Code;

19                    (C) engages in conduct that contains the elements  
20 of an offense under Section 22.01(a)(1), Penal Code, against a  
21 school district employee or a volunteer as defined by Section  
22 22.053; or

23                    (D) engages in conduct that contains the elements  
24 of the offense of deadly conduct under Section 22.05, Penal Code;

25                    (3) subject to Subsection (d), while within 300 feet  
26 of school property, as measured from any point on the school's real  
27 property boundary line:

1 (A) engages in conduct specified by Subsection  
2 (a)(2) [~~(a)~~]; or

3 (B) possesses a firearm, as defined by 18 U.S.C.  
4 Section 921;

5 (4) engages in conduct that contains the elements of  
6 any offense listed in Subsection (a)(2)(B)(i) [~~(a)(2)(A)~~] or (iii)  
7 [~~(C)~~] or the offense of aggravated robbery under Section 29.03,  
8 Penal Code, against another student, without regard to whether the  
9 conduct occurs on or off of school property or while attending a  
10 school-sponsored or school-related activity on or off of school  
11 property; or

12 (5) engages in conduct that contains the elements of  
13 the offense of breach of computer security under Section 33.02,  
14 Penal Code, if:

15 (A) the conduct involves accessing a computer,  
16 computer network, or computer system owned by or operated on behalf  
17 of a school district; and

18 (B) the student knowingly:

19 (i) alters, damages, or deletes school  
20 district property or information; or

21 (ii) commits a breach of any other  
22 computer, computer network, or computer system.

23 (i) A student who engages in conduct described by Subsection  
24 (a)(2) [~~(a)~~] may be expelled from school by the district in which  
25 the student attends school if the student engages in that conduct:

26 (1) on school property of another district in this  
27 state; or

1           (2) while attending a school-sponsored or  
2 school-related activity of a school in another district in this  
3 state.

4           SECTION 2. Section 37.002(d), Education Code, is amended to  
5 read as follows:

6           (d) A teacher shall remove from class and send to the  
7 principal for placement in a disciplinary alternative education  
8 program or for expulsion, as appropriate, a student who engages in  
9 conduct described under Section 37.006 or 37.007. The student may  
10 not be returned to that teacher's class without the teacher's  
11 consent unless the committee established under Section 37.003  
12 determines that such placement is the best or only alternative  
13 available. If the teacher removed the student from class because  
14 the student has engaged in the elements of any offense listed in  
15 Section 37.006(a)(2)(B) or Section 37.007(a)(2)(B)(i)  
16 [~~37.007(a)(2)(A)~~] or (b)(2)(C) against the teacher, the student may  
17 not be returned to the teacher's class without the teacher's  
18 consent. The teacher may not be coerced to consent.

19           SECTION 3. Section 37.0021(f), Education Code, is amended  
20 to read as follows:

21           (f) For purposes of this subsection, "weapon" includes any  
22 weapon described under Section 37.007(a)(2)(A) [~~37.007(a)(1)~~].  
23 This section does not prevent a student's locked, unattended  
24 confinement in an emergency situation while awaiting the arrival of  
25 law enforcement personnel if:

- 26           (1) the student possesses a weapon; and  
27           (2) the confinement is necessary to prevent the

1 student from causing bodily harm to the student or another person.

2 SECTION 4. Section 37.006(a), Education Code, is amended to  
3 read as follows:

4 (a) A student shall be removed from class and placed in a  
5 disciplinary alternative education program as provided by Section  
6 37.008 if the student:

7 (1) engages in conduct involving a public school that  
8 contains the elements of the offense of false alarm or report under  
9 Section 42.06, Penal Code~~[, or terroristic threat under Section~~  
10 ~~22.07, Penal Code]~~; or

11 (2) commits the following on or within 300 feet of  
12 school property, as measured from any point on the school's real  
13 property boundary line, or while attending a school-sponsored or  
14 school-related activity on or off of school property:

15 (A) engages in conduct punishable as a felony;

16 (B) engages in conduct that contains the elements  
17 of the offense of assault under Section 22.01(a)(1), Penal Code;

18 (C) sells, gives, or delivers to another person  
19 or possesses or uses or is under the influence of:

20 (i) marihuana or a controlled substance, as  
21 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.  
22 Section 801 et seq.; or

23 (ii) a dangerous drug, as defined by  
24 Chapter 483, Health and Safety Code;

25 (D) sells, gives, or delivers to another person  
26 an alcoholic beverage, as defined by Section 1.04, Alcoholic  
27 Beverage Code, commits a serious act or offense while under the

1 influence of alcohol, or possesses, uses, or is under the influence  
2 of an alcoholic beverage;

3 (E) engages in conduct that contains the elements  
4 of an offense relating to an abusable volatile chemical under  
5 Sections 485.031 through 485.034, Health and Safety Code;

6 (F) engages in conduct that contains the elements  
7 of the offense of public lewdness under Section 21.07, Penal Code,  
8 or indecent exposure under Section 21.08, Penal Code; or

9 (G) engages in conduct that contains the elements  
10 of the offense of harassment under Section 42.07(a)(1), (2), (3),  
11 or (7), Penal Code, against an employee of the school district.

12 SECTION 5. Section 37.011(b), Education Code, is amended to  
13 read as follows:

14 (b) If a student admitted into the public schools of a  
15 school district under Section 25.001(b) is expelled from school for  
16 conduct for which expulsion is required under Section 37.007(a),  
17 (d), or (e), ~~[or for conduct that contains the elements of the~~  
18 ~~offense of terroristic threat as described by Section 22.07(c-1),~~  
19 ~~(d), or (e), Penal Code,]~~ the juvenile court, the juvenile board, or  
20 the juvenile board's designee, as appropriate, shall:

21 (1) if the student is placed on probation under  
22 Section 54.04, Family Code, order the student to attend the  
23 juvenile justice alternative education program in the county in  
24 which the student resides from the date of disposition as a  
25 condition of probation, unless the child is placed in a  
26 post-adjudication treatment facility;

27 (2) if the student is placed on deferred prosecution

1 under Section 53.03, Family Code, by the court, prosecutor, or  
2 probation department, require the student to immediately attend the  
3 juvenile justice alternative education program in the county in  
4 which the student resides for a period not to exceed six months as a  
5 condition of the deferred prosecution;

6 (3) in determining the conditions of the deferred  
7 prosecution or court-ordered probation, consider the length of the  
8 school district's expulsion order for the student; and

9 (4) provide timely educational services to the student  
10 in the juvenile justice alternative education program in the county  
11 in which the student resides, regardless of the student's age or  
12 whether the juvenile court has jurisdiction over the student.

13 SECTION 6. This Act applies beginning with the 2021-2022  
14 school year.

15 SECTION 7. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2021.