

By: Corte, et al.

H.B. No. 16

A BILL TO BE ENTITLED

AN ACT

relating to the expulsion of students for assault of school employees.

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

SECTION 1. Section 37.006(a), Education Code, is amended to read as follows:

(a) Except as provided by Section 37.007(a)(3) or (b), a student shall be removed from class and placed in an alternative education program as provided by Section 37.008 if the student:

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

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

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code, if committed against a person other than a school employee;

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

(i) marihuana or a controlled substance, as

1 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
2 Section 801 et seq.; or

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

5 (D) sells, gives, or delivers to another person
6 an alcoholic beverage, as defined by Section 1.04, Alcoholic
7 Beverage Code, commits a serious act or offense while under the
8 influence of alcohol, or possesses, uses, or is under the influence
9 of an alcoholic beverage;

10 (E) engages in conduct that contains the elements
11 of an offense relating to abusable glue or aerosol paint under
12 Sections 485.031 through 485.035, Health and Safety Code, or
13 relating to volatile chemicals under Chapter 484, Health and Safety
14 Code; or

15 (F) engages in conduct that contains the elements
16 of the offense of public lewdness under Section 21.07, Penal Code,
17 or indecent exposure under Section 21.08, Penal Code.

18 SECTION 2. Sections 37.007(a) and (b), Education Code, are
19 amended to read as follows:

20 (a) A student shall be expelled from a school if the
21 student, on school property or while attending a school-sponsored
22 or school-related activity on or off of school property:

23 (1) uses, exhibits, or possesses:

24 (A) a firearm as defined by Section 46.01(3),
25 Penal Code;

26 (B) an illegal knife as defined by Section
27 46.01(6), Penal Code, or by local policy;

1 (C) a club as defined by Section 46.01(1), Penal
2 Code; or

3 (D) a weapon listed as a prohibited weapon under
4 Section 46.05, Penal Code;

5 (2) engages in conduct that contains the elements of
6 the offense of:

7 (A) aggravated assault under Section 22.02,
8 Penal Code, sexual assault under Section 22.011, Penal Code, or
9 aggravated sexual assault under Section 22.021, Penal Code;

10 (B) assault under Section 22.01(a)(1), Penal
11 Code, if committed against a school employee;

12 (C) arson under Section 28.02, Penal Code;

13 (D) [~~C~~] murder under Section 19.02, Penal
14 Code, capital murder under Section 19.03, Penal Code, or criminal
15 attempt, under Section 15.01, Penal Code, to commit murder or
16 capital murder;

17 (E) [~~D~~] indecency with a child under Section
18 21.11, Penal Code; or

19 (F) [~~E~~] aggravated kidnapping under Section
20 20.04, Penal Code; or

21 (3) engages in conduct specified by Section
22 37.006(a)(2)(C) or (D), if the conduct is punishable as a 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 false alarm or report under
26 Section 42.06, Penal Code, or terroristic threat under Section
27 22.07, Penal Code; or

1 (2) while on school property or while attending a
2 school-sponsored or school-related activity on or off of school
3 property:

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

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

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

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

13 (B) engages in conduct that contains the elements
14 of an offense relating to abusable glue or aerosol paint under
15 Sections 485.031 through 485.035, Health and Safety Code, or
16 relating to volatile chemicals under Chapter 484, Health and Safety
17 Code; or

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

22 SECTION 3. This Act applies beginning with the 2003-2004
23 school year.

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2003.