

By: Lewis

H.B. No. 582

A BILL TO BE ENTITLED

AN ACT

relating to discipline of public school students.

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

SECTION 1. Section 37.006, Education Code, is amended by amending Subsection (a) and adding Subsection (m) to read as follows:

(a) Except as provided by Subsection (m) or 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;

(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 (m) The board of trustees of a school district may adopt, as
19 part of the student code of conduct under Section 37.001, a written
20 policy providing for a school principal or other appropriate
21 administrator, on the basis of mitigating circumstances, to reduce
22 the term of an alternative education program placement otherwise
23 prescribed by district policy or to suspend a student as provided by
24 Section 37.005 rather than placing the student in an alternative
25 education program for conduct specified by Subsection (a)(2)(C),
26 (D), (E), or (F) unless the conduct specified by Subsection
27 (a)(2)(C) or (D) is punishable as a felony. A policy adopted under

1 this subsection must provide for considering a student's
2 disciplinary history, intent or lack of intent, and academic
3 standing and may provide for considering any other mitigating
4 circumstances the board of trustees determines to be appropriate.

5 SECTION 2. Section 37.007, Education Code, is amended by
6 amending Subsection (a) and adding Subsection (i) to read as
7 follows:

8 (a) Except as provided by Subsection (i), a [A] student
9 shall be expelled from a school if the student, on school property
10 or while attending a school-sponsored or school-related activity on
11 or off of school property:

12 (1) uses, exhibits, or possesses:

13 (A) a firearm as defined by Section 46.01(3),
14 Penal Code;

15 (B) an illegal knife as defined by Section
16 46.01(6), Penal Code, or by local policy;

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

19 (D) a weapon listed as a prohibited weapon under
20 Section 46.05, Penal Code;

21 (2) engages in conduct that contains the elements of
22 the offense of:

23 (A) aggravated assault under Section 22.02,
24 Penal Code, sexual assault under Section 22.011, Penal Code, or
25 aggravated sexual assault under Section 22.021, Penal Code;

26 (B) arson under Section 28.02, Penal Code;

27 (C) murder under Section 19.02, Penal Code,

1 capital murder under Section 19.03, Penal Code, or criminal
2 attempt, under Section 15.01, Penal Code, to commit murder or
3 capital murder;

4 (D) indecency with a child under Section 21.11,
5 Penal Code; or

6 (E) aggravated kidnapping under Section 20.04,
7 Penal Code; or

8 (3) engages in conduct specified by Section
9 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

10 (i) The board of trustees of a school district may adopt, as
11 part of the student code of conduct under Section 37.001, a written
12 policy providing for the board or the board's designee, on the basis
13 of mitigating circumstances, to reduce the term of any expulsion
14 otherwise prescribed by district policy or to place a student in an
15 alternative education program rather than expelling the student for
16 conduct specified by Subsection (a)(1). A policy adopted under
17 this subsection must provide for considering a student's
18 disciplinary history, intent or lack of intent, and academic
19 standing and may provide for considering any other mitigating
20 circumstances the board of trustees determines to be appropriate.
21 The board of trustees may not adopt a policy under this subsection
22 that conflicts with Subsection (e).

23 SECTION 3. Section 37.020, Education Code, is amended to
24 read as follows:

25 Sec. 37.020. REPORTS RELATING TO EXPULSIONS AND ALTERNATIVE
26 EDUCATION PROGRAM PLACEMENTS. (a) In the manner required by the
27 commissioner, each school district shall annually report to the

1 commissioner:

2 (1) for each placement in an alternative education
3 program established under Section 37.008:

4 (A) information identifying the student,
5 including the student's race, sex, and date of birth, that will
6 enable the agency to compare placement data with information
7 collected through other reports;

8 (B) information indicating whether the placement
9 was based on:

10 (i) conduct violating the student code of
11 conduct adopted under Section 37.001;

12 (ii) conduct for which a student may be
13 removed from class under Section 37.002(b);

14 (iii) conduct for which placement in an
15 alternative education program is required by Section 37.006; or

16 (iv) conduct occurring while a student was
17 enrolled in another district and for which placement in an
18 alternative education program is permitted by Section 37.008(j);
19 and

20 (C) the number of days the student was assigned
21 to the program and the number of days the student attended the
22 program; and

23 (2) for each expulsion under Section 37.007:

24 (A) information identifying the student,
25 including the student's race, sex, and date of birth, that will
26 enable the agency to compare placement data with information
27 collected through other reports;

1 (B) information indicating whether the expulsion
2 was based on:

3 (i) conduct for which expulsion is required
4 under Section 37.007, including information specifically
5 indicating whether a student was expelled on the basis of Section
6 37.007(e);

7 (ii) conduct, other than conduct described
8 by Subparagraph (iii), for which expulsion is permitted under
9 Section 37.007; or

10 (iii) serious or persistent misbehavior
11 occurring while the student was placed in an alternative education
12 program;

13 (C) the number of days the student was expelled;
14 and

15 (D) information indicating whether:

16 (i) the student was placed in a juvenile
17 justice alternative education program under Section 37.011;

18 (ii) the student was placed in an
19 alternative education program; or

20 (iii) the student was not placed in a
21 juvenile justice or other alternative education program.

22 (b) The commissioner by rule shall provide for appropriate
23 reporting of action taken under Sections 37.006(m) and 37.007(i).

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.