

By: Corte

H.B. No. 11

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 (a) A student shall be removed from class and placed in a
8 disciplinary alternative education program as provided by Section
9 37.008 if the student:

10 (1) engages in conduct involving a public school that
11 contains the elements of the offense of false alarm or report under
12 Section 42.06, Penal Code, or terroristic threat under Section
13 22.07, Penal Code; or

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

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

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

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

24 (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 an abusable volatile chemical under
12 Sections 485.031 through 485.034, Health and Safety Code; or

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

16 SECTION 2. Section 37.007, Education Code, is amended by
17 amending Subsection (a) and reenacting and amending Subsection (b)
18 as amended by Chapters 443 and 1055, Acts of the 78th Legislature,
19 Regular Session, 2003, 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) assault under Section 22.01(a)(1), Penal
8 Code, if committed against a school employee;

9 (B) aggravated assault under Section 22.02,
10 Penal Code, sexual assault under Section 22.011, Penal Code, or
11 aggravated sexual assault under Section 22.021, Penal Code;

12 (C) [~~B~~] 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;

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

21 (G) [~~F~~] aggravated robbery under Section
22 29.03, Penal Code;

23 (H) [~~G~~] manslaughter under Section 19.04,
24 Penal Code; or

25 (I) [~~H~~] criminally negligent homicide under
26 Section 19.05, Penal Code; or

27 (3) engages in conduct specified by Section

1 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

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

3 (1) engages in conduct involving a public school that
4 contains the elements of the offense of false alarm or report under
5 Section 42.06, Penal Code, or terroristic threat under Section
6 22.07, Penal Code;

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

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

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

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

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

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

23 (C) engages in conduct that contains the elements
24 of an offense under Section 22.01(a)(1), Penal Code, against a
25 [~~school district employee or a~~] volunteer as defined by Section
26 22.053; or

27 (D) engages in conduct that contains the elements

1 of the offense of deadly conduct under Section 22.05, Penal Code;
2 [~~or~~]

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

6 (A) engages in conduct specified by Subsection
7 (a); or

8 (B) possesses a firearm, as defined by 18 U.S.C.
9 Section 921; or

10 (4) [~~(3)~~] engages in conduct that contains the
11 elements of any offense listed in Subsection (a)(2)(B) or (D)
12 [~~(a)(2)(A) or (C)~~] or the offense of aggravated robbery under
13 Section 29.03, Penal Code, against another student, without regard
14 to whether the conduct occurs on or off of school property or while
15 attending a school-sponsored or school-related activity on or off
16 of school property.

17 SECTION 3. This Act applies beginning with the 2005-2006
18 school year.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2005.