

By: Olivo

H.B. No. 624

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 37.001, Education Code, is amended by adding Subsection (e) to read as follows:

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

SECTION 2. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0011 to read as follows:

Sec. 37.0011. CULPABLE MENTAL STATE REQUIRED. A school district may not punish a student under this subchapter based on conduct that contains the elements of an offense under the Penal Code unless the principal, board of trustees, or other person authorized under Section 37.009 to review the student's conduct reasonably believes that the student had the culpable mental state required for that offense under the Penal Code.

SECTION 3. Section 37.007(a), Education Code, is amended to read as follows:

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

(1) except as provided by Subsection (e),

1 intentionally, knowingly, or recklessly uses, exhibits, or
2 possesses:

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

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

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

9 (D) a weapon listed as a prohibited weapon under
10 Section 46.05, Penal Code;

11 (2) engages in conduct that contains the elements of
12 the offense of:

13 (A) aggravated assault under Section 22.02,
14 Penal Code, sexual assault under Section 22.011, Penal Code, or
15 aggravated sexual assault under Section 22.021, Penal Code;

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

17 (C) murder under Section 19.02, Penal Code,
18 capital murder under Section 19.03, Penal Code, or criminal
19 attempt, under Section 15.01, Penal Code, to commit murder or
20 capital murder;

21 (D) indecency with a child under Section 21.11,
22 Penal Code;

23 (E) aggravated kidnapping under Section 20.04,
24 Penal Code;

25 (F) aggravated robbery under Section 29.03,
26 Penal Code;

27 (G) manslaughter under Section 19.04, Penal

1 Code; or

2 (H) criminally negligent homicide under Section
3 19.05, Penal Code; or

4 (3) engages in conduct specified by Section
5 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

6 SECTION 4. (a) Section 37.0011, Education Code, as added by
7 this Act, applies to punishment imposed under Subchapter A, Chapter
8 37, Education Code, on or after the effective date of this Act
9 regardless of when the conduct on which the punishment is based
10 occurred.

11 (b) Section 37.007(a), Education Code, as amended by this
12 Act, applies to the expulsion of a student under that section on or
13 after the effective date of this Act regardless of when the conduct
14 on which the expulsion is based occurred.

15 SECTION 5. 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, 2005.