

By: Olivo, Grusendorf, Leibowitz

H.B. No. 625

A BILL TO BE ENTITLED

AN ACT

relating to the discipline of public school students who voluntarily surrender prohibited items.

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

SECTION 1. Section 37.001(a), Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify whether consideration is given to

self-defense as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007; ~~and~~

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion; and

(7) provide guidelines under which:

(A) a student who unknowingly brings to school a prohibited item, including an item described by Section 37.007(a)(1) or (b)(2), may avoid disciplinary action by turning over the item to a school official; and

(B) the school official must provide written notice of the incident to the student's parent.

SECTION 2. 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) uses, exhibits, or knowingly possesses:

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

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

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

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

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

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

(B) arson under Section 28.02, Penal Code;

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

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

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

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

(G) manslaughter under Section 19.04, Penal Code; or

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

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

SECTION 3. Section 37.007(b), Education Code, as amended by

1 Chapters 443 and 1055, Acts of the 78th Legislature, Regular
2 Session, 2003, is reenacted and amended to read as follows:

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

4 (1) engages in conduct involving a public school that
5 contains the elements of the offense of false alarm or report under
6 Section 42.06, Penal Code, or terroristic threat under Section
7 22.07, Penal Code;

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

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

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

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

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

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

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

22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code; ~~[or]~~

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

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

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

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

SECTION 4. This Act applies beginning with the 2005-2006 school year.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.