

By: Olivo

H.B. No. 2475

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to discipline of public school students who fail to report  
3 possession or use of prescription medication on or near school  
4 premises, at school or school-related activities, or on a school  
5 bus.

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

7 SECTION 1. Section 37.005, Education Code, is amended by  
8 adding Subsections (a-1), (a-2), and (a-3) to read as follows:

9 (a-1) Based on a student's disciplinary history, the  
10 student's intent, the best interests of the school, the best  
11 interests of the student, the possible use of a lesser punishment,  
12 and the possible benefits of rehabilitation rather than punishment,  
13 as determined by the principal or other appropriate administrator,  
14 a student may, except as provided by Subsection (a-2), be suspended  
15 under this section if the student, in, on, or within 1,000 feet of  
16 school premises, as defined by Section 481.134, Health and Safety  
17 Code, while attending a school-sponsored or school-related  
18 activity on or off of school premises, or on a school bus, possesses  
19 or uses a controlled substance, as defined by Chapter 481, Health  
20 and Safety Code, or by 21 U.S.C. Section 801 et seq., or a dangerous  
21 drug, as defined by Chapter 483, Health and Safety Code, if:

22 (1) the substance or drug has been prescribed to the  
23 student as medication as indicated by the lawfully issued  
24 prescription label;

1           (2) the student has failed to follow school procedures  
2 for reporting to school personnel the student's possession or use  
3 of the substance or drug; and

4           (3) there is reason to believe that the student's  
5 possession or use of the substance or drug is for the student's  
6 personal medical needs.

7           (a-2) A principal or other appropriate administrator shall  
8 suspend under this section a student who has been determined to have  
9 engaged in conduct as described by Subsection (a-1) more than one  
10 time.

11           (a-3) Notwithstanding any other law, a student may not be  
12 issued a citation for engaging in conduct described by Subsection  
13 (a-1).

14           SECTION 2. Section 37.006, Education Code, is amended by  
15 adding Subsection (q) to read as follows:

16           (q) Notwithstanding any other provision of this section,  
17 based on a student's disciplinary history, the student's intent,  
18 the best interests of the school, the best interests of the student,  
19 the possible use of a lesser punishment, and the possible benefits  
20 of rehabilitation rather than punishment, as determined by the  
21 school principal or other appropriate administrator, a student may,  
22 except as provided by Sections 37.005(a-1) and (a-2), be removed  
23 from class and placed in a disciplinary alternative education  
24 program as provided by Section 37.008 if the student engages in  
25 conduct as described by Section 37.005(a-1).

26           SECTION 3. Section 37.007, Education Code, is amended by  
27 adding Subsection (b-1) to read as follows:

1       (b-1) In determining whether to expel a student under  
2 Subsection (b) for possession or use of a controlled substance, as  
3 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.  
4 Section 801 et seq., or a dangerous drug, as defined by Chapter 483,  
5 Health and Safety Code, the school principal shall consider the  
6 student's disciplinary history, the student's intent, the best  
7 interests of the school, the best interests of the student, the  
8 possible use of a lesser punishment, and the possible benefits of  
9 rehabilitation rather than punishment if:

10               (1) the substance or drug has been prescribed to the  
11 student as medication as indicated by the lawfully issued  
12 prescription label;

13               (2) the student has failed to follow school procedures  
14 for reporting to school personnel the student's possession or use  
15 of the substance or drug; and

16               (3) there is reason to believe that the student's  
17 possession or use of the substance or drug is for the student's  
18 personal medical needs.

19       SECTION 4. This Act applies beginning with the 2009-2010  
20 school year.

21       SECTION 5. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2009.