

By: Olivo

H.B. No. 2902

A BILL TO BE ENTITLED

AN ACT

relating to removal of a public school student and placement in a disciplinary alternative education program for off-campus conduct.

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

SECTION 1. Sections 37.006(c), (d), and (e), Education Code, are amended to read as follows:

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code; or

(3) the superintendent or the superintendent's designee has overwhelming evidence [~~a reasonable belief~~] that the student has engaged in a conduct defined as a felony offense in Title 5, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring

1 off campus and while the student is not in attendance at a  
2 school-sponsored or school-related activity if:

3 (1) the superintendent or the superintendent's  
4 designee has overwhelming evidence [~~a reasonable belief~~] that the  
5 student has engaged in conduct defined as a felony offense other  
6 than those defined in Title 5, Penal Code; and

7 (2) the continued presence of the student in the  
8 regular classroom imminently threatens the safety of other students  
9 or teachers or will be irreparably detrimental to the educational  
10 process.

11 (e) In determining whether there is overwhelming evidence  
12 [~~a reasonable belief~~] that a student has engaged in conduct defined  
13 as a felony offense by the Penal Code, the superintendent or the  
14 superintendent's designee may consider all available information,  
15 including the information furnished under Article 15.27, Code of  
16 Criminal Procedure.

17 SECTION 2. This Act applies beginning with the 2009-2010  
18 school year.

19 SECTION 3. 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, 2009.