

By: Strama

H.B. No. 968

A BILL TO BE ENTITLED

AN ACT

relating to expulsion from school or placement in a disciplinary alternative education program for certain conduct.

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

SECTION 1. Sections 37.006(c) and (d), 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) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, 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) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a

1 conduct defined as:

2 (A) a felony offense in Title 5, Penal Code; or

3 (B) the felony offense of aggravated robbery  
4 under Section 29.03, Penal Code.

5 (d) In addition to Subsections (a), (b), and (c), a student  
6 may be removed from class and placed in a disciplinary alternative  
7 education program under Section 37.008 based on conduct occurring  
8 more than 300 feet off campus and while the student is not in  
9 attendance at a school-sponsored or school-related activity if:

10 (1) the superintendent or the superintendent's  
11 designee has a reasonable belief that the student has engaged in  
12 conduct defined as a felony offense other than aggravated robbery  
13 under Section 29.03, Penal Code, or those offenses defined in Title  
14 5, Penal Code; and

15 (2) the continued presence of the student in the  
16 regular classroom threatens the safety of other students or  
17 teachers or will be detrimental to the educational process.

18 SECTION 2. Sections 37.007(a) and (b), Education Code, are  
19 amended to read as follows:

20 (a) Except as provided by Subsection (k), a student shall be  
21 expelled from a school if the student, while on or within 300 feet  
22 of school property, as measured from any point on the school's real  
23 property boundary line, or while attending a school-sponsored or  
24 school-related activity on or off of school property:

25 (1) uses, exhibits, or possesses:

26 (A) a firearm as defined by Section 46.01(3),  
27 Penal Code, or 18 U.S.C. Section 921;

1 (B) an illegal knife as defined by Section  
2 46.01(6), Penal Code, or by local policy;

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

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

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

9 (A) 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 (B) arson under Section 28.02, Penal Code;

13 (C) murder under Section 19.02, Penal Code,  
14 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 (D) indecency with a child under Section 21.11,  
18 Penal Code;

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

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

23 (G) manslaughter under Section 19.04, Penal  
24 Code;

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

27 (I) continuous sexual abuse of young child or

1 children under Section 21.02, Penal Code; or

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

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

5 (1) engages in conduct involving a public school that  
6 contains the elements of the offense of false alarm or report under  
7 Section 42.06, Penal Code, or terroristic threat under Section  
8 22.07, Penal Code;

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

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

1 22.053; or

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

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

7 [~~(A) engages in conduct specified by Subsection~~  
8 ~~(a); or~~

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

11 [~~(4)~~] engages in conduct that contains the elements of  
12 any offense listed in Subsection (a)(2)(A) or (C) or the offense of  
13 aggravated robbery under Section 29.03, Penal Code, against another  
14 student, if the conduct occurs more than 300 feet off campus and  
15 [~~without regard to whether the conduct occurs on or off of school~~  
16 ~~property or~~] while the student is not in attendance at [~~attending~~] a  
17 school-sponsored or school-related activity [~~on or off of school~~  
18 ~~property~~].

19 SECTION 3. Section 37.0081(a), Education Code, is amended  
20 to read as follows:

21 (a) Subject to Subsection (h), but notwithstanding any  
22 other provision of this subchapter, the board of trustees of a  
23 school district, or the board's designee, after an opportunity for  
24 a hearing may expel a student and elect to place the student in an  
25 alternative setting as provided by Subsection (a-1) if:

26 (1) the student:

27 (A) has received deferred prosecution under

1 Section 53.03, Family Code, for conduct defined as:

2 (i) a felony offense in Title 5, Penal Code;

3 or

4 (ii) the felony offense of aggravated  
5 robbery under Section 29.03, Penal Code;

6 (B) has been found by a court or jury to have  
7 engaged in delinquent conduct under Section 54.03, Family Code, for  
8 conduct defined as:

9 (i) a felony offense in Title 5, Penal Code;

10 or

11 (ii) the felony offense of aggravated  
12 robbery under Section 29.03, Penal Code;

13 (C) is charged with engaging in conduct defined  
14 as:

15 (i) a felony offense in Title 5, Penal Code;

16 or

17 (ii) the felony offense of aggravated  
18 robbery under Section 29.03, Penal Code;

19 (D) has been referred to a juvenile court for  
20 allegedly engaging in delinquent conduct under Section 54.03,  
21 Family Code, for conduct defined as:

22 (i) a felony offense in Title 5, Penal Code;

23 or

24 (ii) the felony offense of aggravated  
25 robbery under Section 29.03, Penal Code;

26 (E) has received probation or deferred  
27 adjudication for a felony offense under Title 5, Penal Code, or the

1 felony offense of aggravated robbery under Section 29.03, Penal  
2 Code;

3 (F) has been convicted of a felony offense under  
4 Title 5, Penal Code, or the felony offense of aggravated robbery  
5 under Section 29.03, Penal Code; or

6 (G) has been arrested for or charged with a  
7 felony offense under Title 5, Penal Code, or the felony offense of  
8 aggravated robbery under Section 29.03, Penal Code; and

9 (2) the board or the board's designee determines that  
10 the student's presence in the regular classroom:

11 (A) threatens the safety of other students or  
12 teachers;

13 (B) will be detrimental to the educational  
14 process; or

15 (C) is not in the best interests of the  
16 district's students.

17 SECTION 4. This Act applies beginning with the 2011-2012  
18 school year.

19 SECTION 5. 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, 2011.