

1-1 By: Whitmire, Hinojosa S.B. No. 1116
1-2 (In the Senate - Filed March 3, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 18, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 18, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1116 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the enforcement and punishment of certain prohibited
1-11 conduct that occurs on a public school campus or on a vehicle owned
1-12 by a county or school district.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 45.058, Code of Criminal Procedure, is
1-15 amended by adding Subsections (i) and (j) to read as follows:

1-16 (i) If a law enforcement officer issues a citation or files
1-17 a complaint in the manner provided by Article 45.018 for conduct by
1-18 a child 12 years of age or older that is alleged to have occurred on
1-19 school property or on a vehicle owned or operated by a county or
1-20 independent school district, the officer shall attach to the
1-21 citation the offense report, a statement by a witness to the alleged
1-22 conduct, and a statement by a victim of the alleged conduct, if any.
1-23 An attorney representing the state may not proceed in a trial of an
1-24 offense unless the law enforcement officer complied with the
1-25 requirements of this subsection.

1-26 (j) Notwithstanding Subsection (g) or (g-1), a law
1-27 enforcement officer may not issue a citation or file a complaint in
1-28 the manner provided by Article 45.018 for conduct by a child younger
1-29 than 12 years of age that is alleged to have occurred on school
1-30 property or on a vehicle owned or operated by a county or
1-31 independent school district.

1-32 SECTION 2. Subsection (a), Section 37.001, Education Code,
1-33 is amended to read as follows:

1-34 (a) The board of trustees of an independent school district
1-35 shall, with the advice of its district-level committee established
1-36 under Subchapter F, Chapter 11, adopt a student code of conduct for
1-37 the district. The student code of conduct must be posted and
1-38 prominently displayed at each school campus or made available for
1-39 review at the office of the campus principal. In addition to
1-40 establishing standards for student conduct, the student code of
1-41 conduct must:

1-42 (1) specify the circumstances, in accordance with this
1-43 subchapter, under which a student may be removed from a classroom,
1-44 campus, ~~or~~ disciplinary alternative education program, or
1-45 vehicle owned or operated by the district;

1-46 (2) specify conditions that authorize or require a
1-47 principal or other appropriate administrator to transfer a student
1-48 to a disciplinary alternative education program;

1-49 (3) outline conditions under which a student may be
1-50 suspended as provided by Section 37.005 or expelled as provided by
1-51 Section 37.007;

1-52 (4) specify that consideration will be given, as a
1-53 factor in each decision concerning suspension, removal to a
1-54 disciplinary alternative education program, expulsion, or
1-55 placement in a juvenile justice alternative education program,
1-56 regardless of whether the decision concerns a mandatory or
1-57 discretionary action, to:

1-58 (A) self-defense;

1-59 (B) intent or lack of intent at the time the
1-60 student engaged in the conduct;

1-61 (C) a student's disciplinary history; or

1-62 (D) a disability that substantially impairs the
1-63 student's capacity to appreciate the wrongfulness of the student's

2-1 conduct;

2-2 (5) provide guidelines for setting the length of a

2-3 term of:

2-4 (A) a removal under Section 37.006; and

2-5 (B) an expulsion under Section 37.007;

2-6 (6) address the notification of a student's parent or

2-7 guardian of a violation of the student code of conduct committed by

2-8 the student that results in suspension, removal to a disciplinary

2-9 alternative education program, or expulsion;

2-10 (7) prohibit bullying, harassment, and making hit

2-11 lists and ensure that district employees enforce those

2-12 prohibitions; and

2-13 (8) provide, as appropriate for students at each grade

2-14 level, methods, including options, for:

2-15 (A) managing students in the classroom, ~~and~~ on

2-16 school grounds, and on a vehicle owned or operated by the district;

2-17 (B) disciplining students; and

2-18 (C) preventing and intervening in student

2-19 discipline problems, including bullying, harassment, and making

2-20 hit lists.

2-21 SECTION 3. Subsections (b) and (f), Section 37.081,

2-22 Education Code, are amended to read as follows:

2-23 (b) In a peace officer's jurisdiction, a peace officer

2-24 commissioned under this section:

2-25 (1) has the powers, privileges, and immunities of

2-26 peace officers;

2-27 (2) may enforce all laws, including municipal

2-28 ordinances, county ordinances, and state laws; and

2-29 (3) may, in accordance with Chapter 52, Family Code,

2-30 or Article 45.058, Code of Criminal Procedure, take a child

2-31 [juvenile] into custody.

2-32 (f) The chief of police of the school district police

2-33 department shall be accountable to the superintendent and shall

2-34 report to the superintendent ~~[or the superintendent's designee]~~.

2-35 School district police officers shall be supervised by the chief of

2-36 police of the school district or the chief of police's designee and

2-37 shall be licensed by the Commission on Law Enforcement Officer

2-38 Standards and Education.

2-39 SECTION 4. Subsection (a), Section 37.124, Education Code,

2-40 is amended to read as follows:

2-41 (a) A person other than a primary or secondary grade student

2-42 commits an offense if the person, on school property or on public

2-43 property within 500 feet of school property, alone or in concert

2-44 with others, intentionally disrupts the conduct of classes or other

2-45 school activities.

2-46 SECTION 5. Subsection (a), Section 37.126, Education Code,

2-47 is amended to read as follows:

2-48 (a) Except as provided by Section 37.125, a person other

2-49 than a primary or secondary grade student commits an offense if the

2-50 person intentionally disrupts, prevents, or interferes with the

2-51 lawful transportation of children to or from school or an activity

2-52 sponsored by a school on a vehicle owned or operated by a county or

2-53 independent school district.

2-54 SECTION 6. Section 42.01, Penal Code, is amended by adding

2-55 Subsection (a-1) to read as follows:

2-56 (a-1) For purposes of Subsection (a), the term "public

2-57 place" includes a public school campus or school grounds on which a

2-58 public school is located.

2-59 SECTION 7. The changes in law made by this Act in amending

2-60 Article 45.058, Code of Criminal Procedure, Sections 37.124 and

2-61 37.126, Education Code, and Section 42.01, Penal Code, apply only

2-62 to an offense committed on or after the effective date of this Act.

2-63 An offense committed before the effective date of this Act is

2-64 governed by the law in effect on the date the offense was committed,

2-65 and the former law is continued in effect for that purpose. For

2-66 purposes of this section, an offense was committed before the

2-67 effective date of this Act if any element of the offense occurred

2-68 before that date.

2-69 SECTION 8. This Act takes effect September 1, 2011.