

By: Giddings

H.B. No. 2040

A BILL TO BE ENTITLED

AN ACT

relating to a complaint alleging the commission of an offense by a child on school property.

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

SECTION 1. Chapter 37, Education Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. COMPLAINTS FOR CERTAIN MISDEMEANOR OFFENSES

Sec. 37.141. DEFINITIONS. In this subchapter:

(1) "Child" means a person who is:

(A) younger than 17 years of age; and

(B) not married, divorced, or widowed.

(2) "School offense" means an offense, other than a traffic offense, committed by a child on property under the control and jurisdiction of a school district.

Sec. 37.142. CONFLICT OF LAW. To the extent of any conflict, this subchapter controls over any other law applied to a school offense alleged to have been committed by a child.

Sec. 37.143. CITATION PROHIBITED; CUSTODY OF CHILD. (a) Notwithstanding Article 14.06(b), Code of Criminal Procedure, a peace officer may not issue a citation to a child who is alleged to have committed a school offense.

(b) This subchapter does not prohibit a child from being taken into custody under Section 52.01, Family Code, or a peace officer from issuing a citation to a student who is not a child.

1 Sec. 37.144. COMPLAINT. A school may file a complaint
2 against a child who is alleged to have committed a school offense
3 with a criminal court in accordance with Section 37.145.

4 Sec. 37.145. REQUISITES OF COMPLAINT. A complaint alleging
5 the commission of a school offense must, in addition to the
6 requirements imposed by Articles 45.018 and 45.019, Code of
7 Criminal Procedure:

8 (1) be sworn to by a person who has personal knowledge
9 of the underlying facts giving rise to probable cause to believe
10 that an offense has been committed; and

11 (2) be accompanied by a statement from a school
12 employee stating whether the child is eligible for or receives
13 special services under Subchapter A, Chapter 29.

14 Sec. 37.146. DISMISSAL OF COMPLAINT. A court shall dismiss
15 a complaint alleging a school offense that is not filed in
16 compliance with this subchapter.

17 SECTION 2. The changes in law made by this Act apply only to
18 an offense committed on or after the effective date of this Act. An
19 offense committed before the effective date of this Act is governed
20 by the law in effect at the time the offense was committed, and the
21 former law is continued in effect for that purpose. For the
22 purposes of this section, an offense is committed before the
23 effective date of this Act if any element of the offense was
24 committed before that date.

25 SECTION 3. This Act takes effect September 1, 2013.