

By: Raymond

H.B. No. 2450

A BILL TO BE ENTITLED

AN ACT

1
2 relating to public and private school searches of students with
3 parental consent and certain disciplinary measures and other
4 procedures that may arise from such a search.

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

6 SECTION 1. Subchapter A, Chapter 37, Education Code, is
7 amended by adding Sections 37.0012 and 37.0013 to read as follows:

8 Sec. 37.0012. PARENTAL-CONSENT SEARCH. (a) The principal
9 of a public or private primary or secondary school or
10 open-enrollment charter school who suspects a student of engaging
11 in harmful or illegal conduct that poses a serious risk to the
12 student or other students at the school may seek consent from the
13 parent or guardian of the student to search the student and the
14 possessions of the student for evidence of a violation of the law or
15 school policy. If the student's parent or guardian consents to the
16 search, the principal may conduct the search with the assistance of
17 a peace officer commissioned by the board of trustees of a district
18 or security personnel employed by the school.

19 (b) The principal of a public or private primary or
20 secondary school or open-enrollment charter school or a peace
21 officer commissioned by the board of trustees of a district or
22 security personnel employed by the school shall confiscate any item
23 or substance prohibited by law and immediately deliver the item or
24 substance to a local law enforcement agency.

1 Sec. 37.0013. DISCIPLINE FOR VIOLATIONS OF LAW OR SCHOOL
2 POLICY DISCOVERED IN PARENTAL-CONSENT SEARCH. (a) A student found
3 to be in violation of law or school policy based on a
4 parental-consent search conducted under Section 37.0012 may not be
5 expelled for the violation.

6 (b) A student found to be in violation of law or school
7 policy based on a parental-consent search conducted under Section
8 37.0012 may, with the consent of the student's parent or guardian,
9 be subject to compulsory attendance at, as appropriate:

10 (1) a youth boot camp established under Section
11 37.013(b); and

12 (2) a substance abuse treatment program established
13 under Section 37.013(c).

14 SECTION 2. Section 37.007(a), Education Code, is amended to
15 read as follows:

16 (a) Except as provided by Subsection (k) or Section 37.0013,
17 a student shall be expelled from a school if the student, on school
18 property or while attending a school-sponsored or school-related
19 activity on or off of school property:

20 (1) uses, exhibits, or possesses:

21 (A) a firearm as defined by Section 46.01(3),
22 Penal Code;

23 (B) an illegal knife as defined by Section
24 46.01(6), Penal Code, or by local policy;

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

27 (D) a weapon listed as a prohibited weapon under

1 Section 46.05, Penal Code;

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

4 (A) aggravated assault under Section 22.02,
5 Penal Code, sexual assault under Section 22.011, Penal Code, or
6 aggravated sexual assault under Section 22.021, Penal Code;

7 (B) arson under Section 28.02, Penal Code;

8 (C) murder under Section 19.02, Penal Code,
9 capital murder under Section 19.03, Penal Code, or criminal
10 attempt, under Section 15.01, Penal Code, to commit murder or
11 capital murder;

12 (D) indecency with a child under Section 21.11,
13 Penal Code;

14 (E) aggravated kidnapping under Section 20.04,
15 Penal Code;

16 (F) aggravated robbery under Section 29.03,
17 Penal Code;

18 (G) manslaughter under Section 19.04, Penal
19 Code;

20 (H) criminally negligent homicide under Section
21 19.05, Penal Code; or

22 (I) continuous sexual abuse of young child or
23 children under Section 21.02, Penal Code; or

24 (3) engages in conduct specified by Section
25 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

26 SECTION 3. Section 37.013, Education Code, is amended to
27 read as follows:

1 Sec. 37.013. COORDINATION BETWEEN SCHOOL DISTRICTS AND
2 JUVENILE BOARDS; YOUTH BOOT CAMP; SUBSTANCE ABUSE PROGRAM. (a) The
3 board of trustees of the school district or the board's designee
4 shall at the call of the president of the board of trustees
5 regularly meet with the juvenile board for the county in which the
6 district's central administrative office is located or the juvenile
7 board's designee concerning supervision and rehabilitative
8 services appropriate for expelled students and students assigned to
9 disciplinary alternative education programs. Matters for
10 discussion shall include service by probation officers at the
11 disciplinary alternative education program site, recruitment of
12 volunteers to serve as mentors and provide tutoring services, and
13 coordination with other social service agencies.

14 (b) The board of trustees of a school district or governing
15 body of an open-enrollment charter school or private school may
16 cooperate with the juvenile board of the county or local juvenile
17 probation department in establishing a youth boot camp in
18 accordance with Section 152.0011, Human Resources Code, for
19 students who violate a law or school policy in a manner that poses a
20 serious risk to the student or other students at the school.

21 (c) The board of trustees of a school district or governing
22 body of an open-enrollment charter school or private school may
23 cooperate with the juvenile board of the county or local juvenile
24 probation department in establishing a substance abuse treatment
25 program for students who violate a law or school policy by engaging
26 in prohibited conduct related to the use, possession, or delivery
27 of alcohol or a controlled substance.

1 SECTION 4. Chapter 54, Family Code, is amended by adding
2 Section 54.0321 to read as follows:

3 Sec. 54.0321. DEFERRAL OF ADJUDICATION AND DISMISSAL OF
4 CERTAIN CASES ON COMPLETION OF DISCIPLINARY PROGRAM. (a) This
5 section applies only to a child who, based on evidence obtained
6 pursuant to a parental-consent search under Section 37.0012,
7 Education Code, is alleged to have engaged in conduct indicating a
8 need for supervision or delinquent conduct.

9 (b) A juvenile court may defer adjudication proceedings
10 under Section 54.03 for not more than 180 days if a child described
11 by Subsection (a) presents to the court a written request to attend
12 a disciplinary program under Section 37.0013, Education Code.

13 (c) A child for whom adjudication proceedings are deferred
14 under Subsection (b) shall complete the disciplinary program not
15 later than the 90th day after the date the teen court hearing to
16 determine punishment is held or the last day of the deferral period,
17 whichever date is earlier. The court shall dismiss the case with
18 prejudice at the time the child presents satisfactory evidence that
19 the child has successfully completed the disciplinary program.

20 (d) A case dismissed under this section may not be part of
21 the child's records for any purpose.

22 SECTION 5. Section 58.003, Family Code, is amended by
23 adding Subsections (c-7) and (d-1) to read as follows:

24 (c-7) This subsection applies only to a child who, based on
25 evidence obtained pursuant to a parental-consent search under
26 Section 37.0012, Education Code, is adjudicated to have engaged in
27 conduct indicating a need for supervision or delinquent conduct.

1 Notwithstanding Subsections (a) and (c) and subject to Subsection
2 (b), a juvenile court may order the sealing of records concerning a
3 child described by this subsection if the child successfully
4 completed a disciplinary program described by Section 37.0012,
5 Education Code, or graduated from high school or received the
6 child's certificate of high school equivalency. The court may:

7 (1) order the sealing of the records immediately and
8 without a hearing; or

9 (2) hold a hearing to determine whether to seal the
10 records.

11 (d-1) The court may grant the relief authorized under
12 Subsection (c-7) at any time after the child satisfies the
13 requirements of that subsection. If the child is referred to the
14 juvenile court for conduct constituting any offense and at the
15 adjudication hearing the child is found to be not guilty of each
16 offense alleged, the court shall immediately and without any
17 additional hearing order the sealing of all files and records
18 relating to the case.

19 SECTION 6. 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, 2013.