

By: Raymond

H.B. No. 2010

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(b) The principal of a public or private primary or secondary school or open-enrollment charter school or a peace officer commissioned by the board of trustees of a district or security personnel employed by the school shall confiscate any item or substance prohibited by law and immediately deliver the item or 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);

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

14 (3) a juvenile justice alternative education program.

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

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

21 (1) uses, exhibits, or possesses:

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

24 (B) an illegal knife as defined by Section
25 46.01(6), Penal Code, or by local policy;

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

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

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

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

(B) arson under Section 28.02, Penal Code;

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

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

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

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

(G) manslaughter under Section 19.04, Penal Code;

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

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

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

SECTION 3. Section 37.013, Education Code, is amended to

1 read as follows:

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

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

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

1 of alcohol or a controlled substance.

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

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

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

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

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

23 SECTION 5. Section 58.003, Family Code, is amended by
24 adding Subsections (c-9) and (d-1) to read as follows:

25 (c-9) This subsection applies only to a child who, based on
26 evidence obtained pursuant to a parental-consent search under
27 Section 37.0012, Education Code, is adjudicated to have engaged in

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

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

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

12 (d-1) The court may grant the relief authorized under
13 Subsection (c-9) at any time after the child satisfies the
14 requirements of that subsection. If the child is referred to the
15 juvenile court for conduct indicating a need for supervision or
16 delinquent conduct and at the adjudication hearing the child is not
17 found to have engaged in that conduct, the court shall immediately
18 and without any additional hearing order the sealing of all files
19 and records relating to the case.

20 SECTION 6. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2015.