

By: West

S.B. No. 741

A BILL TO BE ENTITLED

AN ACT

1
2 relating to criminal procedures related to certain offenses
3 committed by a student on property under control of a school
4 district.

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

6 SECTION 1. Section 37.141(2), Education Code, is amended to
7 read as follows:

8 (2) "School offense" means an offense committed by a
9 child enrolled in a public school that is a Class C misdemeanor
10 other than a traffic offense and that is committed on property under
11 the control and jurisdiction of a school district, including a
12 public school campus and the school grounds on which a public school
13 is located, regardless of whether the offense is committed during
14 the school year or during the summer session.

15 SECTION 2. Section 37.144(a), Education Code, is amended to
16 read as follows:

17 (a) A school district [~~that commissions peace officers~~
18 ~~under Section 37.081~~] may develop a system of graduated sanctions
19 that the school district may require to be imposed on a child before
20 a complaint is filed under Section 37.145 against the child for a
21 school offense that is an offense [~~under Section 37.124 or 37.126~~
22 ~~or~~] under Section 42.01(a)(1), (2), (3), (4), or (5), Penal
23 Code. A system adopted under this section must include multiple
24 graduated sanctions. The system may require:

1 (1) a warning letter to be issued to the child and the
2 child's parent or guardian that specifically states the child's
3 alleged school offense and explains the consequences if the child
4 engages in additional misconduct;

5 (2) a behavior contract with the child that must be
6 signed by the child, the child's parent or guardian, and an employee
7 of the school and that includes a specific description of the
8 behavior that is required or prohibited for the child and the
9 penalties for additional alleged school offenses, including
10 additional disciplinary action or the filing of a complaint in a
11 criminal court;

12 (3) the performance of school-based community service
13 by the child; and

14 (4) the referral of the child to counseling,
15 community-based services, or other in-school or out-of-school
16 services aimed at addressing the child's behavioral problems.

17 SECTION 3. Section 37.146, Education Code, is amended by
18 amending Subsection (a) and adding Subsection (c) to read as
19 follows:

20 (a) A complaint alleging the commission of a school offense
21 must, in addition to the requirements imposed by Article 45.019,
22 Code of Criminal Procedure:

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

26 (2) be accompanied by a statement from a school
27 employee stating:

1 (A) whether the child is eligible for or receives
2 special services under Subchapter A, Chapter 29; and

3 (B) the graduated sanctions, if required under
4 Section 37.144, that were imposed on the child before the complaint
5 was filed; and

6 (3) be accompanied by a statement by a victim of the
7 alleged conduct, if any.

8 (c) A court shall dismiss a complaint made by a school
9 district that is not made in compliance with Subsection (a).

10 SECTION 4. Section 8.07(e), Penal Code, is amended to read
11 as follows:

12 (e) It is an affirmative defense to prosecution of ~~[A person~~
13 ~~who is at least 10 years of age but younger than 15 years of age is~~
14 ~~presumed incapable of committing]~~ an offense described by
15 Subsection (a)(4) or (5), other than an offense under a juvenile
16 curfew ordinance or order, that the actor was at least 10 years of
17 age but younger than 15 years of age at the time of the alleged
18 offense and did not have sufficient capacity to understand that the
19 conduct engaged in was wrong at the time the conduct was engaged
20 in. ~~[This presumption may be refuted if the prosecution proves to~~
21 ~~the court by a preponderance of the evidence that the actor had~~
22 ~~sufficient capacity to understand that the conduct engaged in was~~
23 ~~wrong at the time the conduct was engaged in.]~~ The prosecution is
24 not required to prove that the actor at the time of engaging in the
25 conduct knew that the act was a criminal offense or knew the legal
26 consequences of the offense.

27 SECTION 5. Articles 45.058(i) and (j), Code of Criminal

1 Procedure, are repealed.

2 SECTION 6. The changes in law made by this Act apply only to
3 an offense committed on or after the effective date of this Act. An
4 offense committed before the effective date of this Act is covered
5 by the law in effect at the time the offense was committed, and the
6 former law is continued in effect for that purpose. For the
7 purposes of this section, an offense is committed before the
8 effective date of this Act if any element of the offense was
9 committed before that date.

10 SECTION 7. This Act takes effect September 1, 2015.