

By: Raymond

H.B. No. 176

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 37.0013 and 37.0014 to read as follows:

Sec. 37.0013. PARENTAL-CONSENT SEARCH. (a) The principal of a public or private primary or secondary school or open-enrollment charter school, or a person designated to serve as the campus behavior coordinator under Section 37.0012, 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 or campus behavior coordinator 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, a person designated to serve as the campus behavior coordinator under Section 37.0012, 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.

Sec. 37.0014. DISCIPLINE FOR VIOLATIONS OF LAW OR SCHOOL POLICY DISCOVERED IN PARENTAL-CONSENT SEARCH. (a) A student found to be in violation of law or school policy based on a parental-consent search conducted under Section 37.0013 may not be expelled for the violation.

(b) A student found to be in violation of law or school policy based on a parental-consent search conducted under Section 37.0013 may, with the consent of the student's parent or guardian, be subject to compulsory attendance at, as appropriate:

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

(2) a substance abuse treatment program established under Section 37.013(c); or

(3) a juvenile justice alternative education program.

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

(a) Except as provided by Subsection (k) or Section 37.0014, a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited

1 weapons under 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 TREATMENT  
3 PROGRAM. (a) The board of trustees of the school district or the  
4 board's designee shall at the call of the president of the board of  
5 trustees regularly meet with the juvenile board for the county in  
6 which the district's central administrative office is located or  
7 the juvenile board's designee concerning supervision and  
8 rehabilitative services appropriate for expelled students and  
9 students assigned to disciplinary alternative education programs.  
10 Matters for discussion shall include service by probation officers  
11 at the disciplinary alternative education program site,  
12 recruitment of volunteers to serve as mentors and provide tutoring  
13 services, and 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.

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

Sec. 54.0321. DEFERRAL OF ADJUDICATION AND DISMISSAL OF CERTAIN CASES ON COMPLETION OF DISCIPLINARY PROGRAM. (a) This section applies only to a child who, based on evidence obtained pursuant to a parental-consent search under Section 37.0013, Education Code, is alleged to have engaged in conduct indicating a need for supervision or delinquent conduct.

(b) A juvenile court may defer adjudication proceedings under Section 54.03 for not more than 180 days if a child described by Subsection (a) presents to the court a written request to attend a disciplinary program under Section 37.0014, Education Code.

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

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

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

(c-9) This subsection applies only to a child who, based on evidence obtained pursuant to a parental-consent search under Section 37.0013, 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 37.0014,  
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, 2017.