

By: Dutton

H.B. No. 2857

A BILL TO BE ENTITLED

AN ACT

relating to the removal of a public school student from the classroom for engaging in conduct involving the possession of certain prohibited substances.

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

SECTION 1. Section 37.006, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2) subject to Subsection (a-1), commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person

or possesses or uses or is under the influence of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code; or

(G) engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), Penal Code, against an employee of the school district.

(a-1) Notwithstanding Subsection (a), a student may but is not required to be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student engages in conduct that contains the elements of:

(1) the offense of possession of marihuana under Section 481.121, Health and Safety Code, if the amount of marihuana possessed is two ounces or less; or

1 (2) the offense of possession of a controlled
2 substance under Section 481.116 or 481.1161, Health and Safety
3 Code, if the substance possessed is an amount less than one gram of
4 tetrahydrocannabinols or cannabinol derivatives that is:

5 (A) contained in an electronic or other device
6 that simulates smoking by using a mechanical heating element,
7 battery, or electronic circuit to deliver a substance described by
8 this subdivision to the individual inhaling from the device; or

9 (B) a consumable liquid solution or other
10 material aerosolized or vaporized during the use of an electronic
11 or other device described by this subdivision.

12 SECTION 2. This Act applies beginning with the 2023-2024
13 school year.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2023.