

By: Stickland

H.B. No. 4336

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requiring the expulsion of a public school student who
3 engages in certain conduct that constitutes the offense of
4 terroristic threat.

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

6 SECTION 1. Sections 37.007(a), (b), and (i), Education
7 Code, are amended to read as follows:

8 (a) Except as provided by Subsection (k), a student shall be
9 expelled from a school if the student:

10 (1) engages in conduct involving a public school that
11 contains the elements of the offense of terroristic threat under
12 Section 22.07, Penal Code; or

13 (2) while [7] on school property or while attending a
14 school-sponsored or school-related activity on or off of school
15 property:

16 (A) [~~1~~] engages in conduct that contains the
17 elements of the offense of unlawfully carrying weapons under
18 Section 46.02, Penal Code, or elements of an offense relating to
19 prohibited weapons under Section 46.05, Penal Code;

20 (B) [~~2~~] engages in conduct that contains the
21 elements of the offense of:

22 (i) [~~A~~] aggravated assault under Section
23 22.02, Penal Code, sexual assault under Section 22.011, Penal Code,
24 or aggravated sexual assault under Section 22.021, Penal Code;

1 (ii) [~~B~~] arson under Section 28.02, Penal
2 Code;

3 (iii) [~~C~~] murder under Section 19.02,
4 Penal Code, capital murder under Section 19.03, Penal Code, or
5 criminal attempt, under Section 15.01, Penal Code, to commit murder
6 or capital murder;

7 (iv) [~~D~~] indecency with a child under
8 Section 21.11, Penal Code;

9 (v) [~~E~~] aggravated kidnapping under
10 Section 20.04, Penal Code;

11 (vi) [~~F~~] aggravated robbery under Section
12 29.03, Penal Code;

13 (vii) [~~G~~] manslaughter under Section
14 19.04, Penal Code;

15 (viii) [~~H~~] criminally negligent homicide
16 under Section 19.05, Penal Code; or

17 (ix) [~~I~~] continuous sexual abuse of young
18 child or children under Section 21.02, Penal Code; or

19 (C) [~~3~~] engages in conduct specified by
20 Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a
21 felony.

22 (b) A student may be expelled if the student:

23 (1) engages in conduct involving a public school that
24 contains the elements of the offense of false alarm or report under
25 Section 42.06, Penal Code [~~, or terroristic threat under Section~~
26 ~~22.07, Penal Code~~];

27 (2) while on or within 300 feet of school property, as

1 measured from any point on the school's real property boundary
2 line, or while attending a school-sponsored or school-related
3 activity on or off of school property:

4 (A) sells, gives, or delivers to another person
5 or possesses, uses, or is under the influence of any amount of:

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

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

11 (iii) an alcoholic beverage, as defined by
12 Section 1.04, Alcoholic Beverage Code;

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

16 (C) engages in conduct that contains the elements
17 of an offense under Section 22.01(a)(1), Penal Code, against a
18 school district employee or a volunteer as defined by Section
19 22.053; or

20 (D) engages in conduct that contains the elements
21 of the offense of deadly conduct under Section 22.05, Penal Code;

22 (3) subject to Subsection (d), while within 300 feet
23 of school property, as measured from any point on the school's real
24 property boundary line:

25 (A) engages in conduct specified by Subsection
26 (a)(2) [~~(a)~~]; or

27 (B) possesses a firearm, as defined by 18 U.S.C.

1 Section 921;

2 (4) engages in conduct that contains the elements of
3 any offense listed in Subsection (a)(2)(B)(i) [~~(a)(2)(A)~~] or (iii)
4 [~~(C)~~] or the offense of aggravated robbery under Section 29.03,
5 Penal Code, against another student, without regard to whether the
6 conduct occurs on or off of school property or while attending a
7 school-sponsored or school-related activity on or off of school
8 property; or

9 (5) engages in conduct that contains the elements of
10 the offense of breach of computer security under Section 33.02,
11 Penal Code, if:

12 (A) the conduct involves accessing a computer,
13 computer network, or computer system owned by or operated on behalf
14 of a school district; and

15 (B) the student knowingly:

16 (i) alters, damages, or deletes school
17 district property or information; or

18 (ii) commits a breach of any other
19 computer, computer network, or computer system.

20 (i) A student who engages in conduct described by Subsection
21 (a)(2) [~~(a)~~] may be expelled from school by the district in which
22 the student attends school if the student engages in that conduct:

23 (1) on school property of another district in this
24 state; or

25 (2) while attending a school-sponsored or
26 school-related activity of a school in another district in this
27 state.

1 SECTION 2. Section 37.002(d), Education Code, is amended to
2 read as follows:

3 (d) A teacher shall remove from class and send to the
4 principal for placement in a disciplinary alternative education
5 program or for expulsion, as appropriate, a student who engages in
6 conduct described under Section 37.006 or 37.007. The student may
7 not be returned to that teacher's class without the teacher's
8 consent unless the committee established under Section 37.003
9 determines that such placement is the best or only alternative
10 available. If the teacher removed the student from class because
11 the student has engaged in the elements of any offense listed in
12 Section 37.006(a)(2)(B) or Section 37.007(a)(2)(B)(i)
13 [~~37.007(a)(2)(A)~~] or (b)(2)(C) against the teacher, the student may
14 not be returned to the teacher's class without the teacher's
15 consent. The teacher may not be coerced to consent.

16 SECTION 3. Section 37.0021(f), Education Code, is amended
17 to read as follows:

18 (f) For purposes of this subsection, "weapon" includes any
19 weapon described under Section 37.007(a)(2)(A) [~~37.007(a)(1)~~].
20 This section does not prevent a student's locked, unattended
21 confinement in an emergency situation while awaiting the arrival of
22 law enforcement personnel if:

- 23 (1) the student possesses a weapon; and
24 (2) the confinement is necessary to prevent the
25 student from causing bodily harm to the student or another person.

26 SECTION 4. Sections 37.007(a) and (b), Education Code, as
27 amended by this Act, apply to any student who attends school on or

1 after the effective date of this Act and who engaged in conduct
2 described by those subsections, regardless of the date on which the
3 conduct occurred.

4 SECTION 5. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2019.