

BILL ANALYSIS

C.S.H.B. 1935
By: Frullo
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that properly enforcing certain prohibitions against illegal knives has become difficult because of confusion among citizens, law enforcement, and the courts over what constitutes an illegal knife. C.S.H.B. 1935 seeks to address this issue by revising provisions relating to certain conduct involving illegal knives.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1935 amends the Education Code to include among the conduct for which a student may be expelled from a public school the use, exhibition, or possession while on school property or while attending a school-sponsored or school-related activity on or off of school property of a knife with a blade over five and one-half inches; a hand instrument designed to cut or stab another by being thrown; a dagger, including a dirk, stiletto, and poniard; a bowie knife; a sword; or a spear.

C.S.H.B. 1935 amends the Family Code to remove a state jail felony or misdemeanor involving the use or possession of an illegal knife from the offenses excluded from the delinquent conduct for which a juvenile board may establish a first offender program for the referral and disposition of children taken into custody or accused prior to the filing of a criminal charge. The bill removes a case alleging that a child engaged in conduct constituting a misdemeanor offense involving the use or possession of an illegal knife from the cases required to be promptly forwarded to the office of the prosecuting attorney under certain circumstances.

C.S.H.B. 1935 amends the Penal Code to remove an illegal knife from the weapons of which the intentional, knowing, or reckless carrying on certain premises constitutes an unlawful carrying of weapons offense or constitutes an offense relating to places where weapons are prohibited and from the weapons of which the intentional or knowing sale, rental, lease, or giving or the offer to sell, rent, lease, or give to any child younger than 18 years of age constitutes an unlawful transfer of certain weapons offense.

C.S.H.B. 1935 repeals the following provisions of the Penal Code:

- Section 46.01(6)

- Section 46.15(e)

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1935 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 37.007(a), Education Code, is amended to read as follows:	No equivalent provision. <i>(But see SECTION 1 below.)</i>
(a) Except as provided by Subsection (k), 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 weapons 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;	
[ø]	
(3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony; <u>or</u>	

- (4) uses, exhibits, or possesses:
- (A) a knife with a blade over five and one-half inches;
- (B) a hand instrument designed to cut or stab another by being thrown;
- (C) a dagger, including a dirk, stiletto, and poniard;
- (D) a bowie knife;
- (E) a sword; or
- (F) a spear.

No equivalent provision. (*But see SECTION 1 above.*)

SECTION 1. Section 37.007(b), Education Code, is amended to read as follows:

(b) A student may be expelled 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;

(2) while 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) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount 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.;

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

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

(B) 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;

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

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

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

(A) engages in conduct specified by Subsection (a); or

- (B) possesses a firearm, as defined by 18 U.S.C. Section 921;
- (4) engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property; ~~[or]~~
- (5) engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:
 - (A) the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and
 - (B) the student knowingly:
 - (i) alters, damages, or deletes school district property or information; or
 - (ii) commits a breach of any other computer, computer network, or computer system; or
- (6) while on school property or while attending a school-sponsored or school-related activity on or off of school property uses, exhibits, or possesses:
 - (A) a knife with a blade over five and one-half inches;
 - (B) a hand instrument designed to cut or stab another by being thrown;
 - (C) a dagger, including a dirk, stiletto, and poniard;
 - (D) a bowie knife;
 - (E) a sword; or
 - (F) a spear.

SECTION 2. Section 52.031(a), Family Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. Section 53.01(d), Family Code, is amended.

SECTION 3. Same as introduced version.

SECTION 4. Section 46.02(a), Penal Code, is amended.

SECTION 4. Same as introduced version.

SECTION 5. Section 46.03(a), Penal Code, is amended.

SECTION 5. Same as introduced version.

SECTION 6. Section 46.06(a), Penal Code, is amended.

SECTION 6. Same as introduced version.

SECTION 7. Sections 46.01(6) and 46.15(e), Penal Code, are repealed.

SECTION 8. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 9. This Act takes effect September 1, 2017.

SECTION 7. Same as introduced version.

SECTION 8. The changes in law made by this Act apply only to an offense committed or conduct that occurs on or after the effective date of this Act. An offense committed or conduct that occurs before the effective date of this Act is governed by the law in effect on the date the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed or conduct occurs before the effective date of this Act if any element of the offense or the conduct occurs before that date.

SECTION 9. Same as introduced version.