

## **BILL ANALYSIS**

Senate Research Center

H.B. 1935  
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Criminal Justice  
5/17/2017  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 1935 amends the Penal Code as it relates to the punishment for certain weapons offenses involving a knife. Under the provisions of the bill, the term illegal knife would be replaced with the term location-restricted knife, which would be defined as a knife with a blade over five and one-half inches, and possession of a knife over five and one-half inches in general public places are reduced from a third degree felony to a Class C misdemeanor.

H.B. 1935 also expands the number of places where carrying a location-restricted knife is specifically prohibited, and makes carrying a knife in these places a third degree felony. The specifically prohibited areas include:

- Schools and higher education premises and places where they sponsor an event
- Polling places and race parks
- Correctional institutions
- Businesses with alcohol permits
- Mental hospitals, medical hospitals, and nursing homes
- Amusement parks
- Places of worship

H.B. 1935 provides a statewide law and clarifies to the public and to the police what and where knives are allowed or prohibited and should prevent the over-criminalization of minorities who are more subject to harsher penalties than the general population.

H.B. 1935 amends current law relating to the carrying of certain knives and creates a criminal offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 52.031(a), Family Code, to authorize a juvenile board to establish a first offender program under this section for the referral and disposition of children taken into custody, or accused prior to the filing of a criminal charge, of delinquent conduct other than conduct that constitutes a state jail felony or misdemeanor involving violence to a person or the use or possession of a firearm, location-restricted knife, rather than illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or a prohibited weapon, as described by Section 46.05 (Prohibited Weapons), Penal Code.

SECTION 2. Amends Section 53.01(d), Family Code, to make a conforming change.

SECTION 3. Amends Section 46.01(6), Penal Code, to define "location-restricted knife" and delete the definition of "illegal knife."

SECTION 4. Amends Section 46.02, Penal Code, by amending Subsections (a) and (b) and adding Subsections (a-4) and (d), as follows:

(a) Provides that a person commits an offense if the person meets certain conditions, including if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun or club, rather than a handgun, illegal knife, or club. Redesignates existing Subdivisions (1) and (2) as Paragraphs (A) and (B), respectively. Makes a nonsubstantive change.

(a-4) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife, is younger than 18 years of age at the time of the offense; and is not on the person's own premises or premises under the person's control, inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control, or under the direct supervision of a parent or legal guardian of the person.

(b) Creates an exception under Subsection (d).

(d) Provides that an offense under Subsection (a-4) is a Class C misdemeanor.

SECTION 5. Amends Section 46.03, Penal Code, by amending Subsections (a) and (g) and adding Subsections (a-1) and (g-1), as follows:

(a) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with certain weapons, including a location-restricted knife, rather than illegal knife on certain premises.

(a-1) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a location-restricted knife on certain premises.

(g) Creates an exception under Subsection (g-1). Makes nonsubstantive changes.

(g-1) Provides that, if the weapon that is the subject of the offense is a location-restricted knife, an offense under this section is a Class C misdemeanor, except that the offense is a felony of the third degree if the offense is committed under Subsection (a)(1) (relating to an offense if a person possesses certain weapons at a school or educational institution).

SECTION 6. Amends Section 46.03(c)(2), Penal Code, to define "amusement park" and make a nonsubstantive change regarding the definition of "premises."

SECTION 7. Amends Section 46.06(a), Penal Code, to provide that a person commits an offense if the person intentionally or knowingly sells, rents, leases, or gives or offers to sell, rent, lease, or give to any child younger than 18 years of age any firearm, club, or location-restricted knife, rather than illegal knife.

SECTION 8. Amends Section 46.15(e), Penal Code, as follows:

(e) Provides that Section 46.02(a-4) does not apply to an individual carrying a location-restricted knife used in a historical demonstration or in a ceremony in which the knife is significant to the performance of the ceremony. Deletes existing text providing that the provisions of Section 46.02 prohibiting the carrying of an illegal knife do not apply to an individual carrying a bowie knife or a sword used in a historical demonstration or in a ceremony in which the knife or sword is significant to the performance of the ceremony.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2017.