

- SUBJECT:** Altering the criminal charge for threatened use of a firearm by a student
- COMMITTEE:** Public Education — favorable, without amendment
- VOTE:** 8 ayes — Huberty, Bernal, Bohac, Dutton, Gooden, K. King, Koop, VanDeaver
- 0 nays
- 3 absent — Allen, Deshotel, Meyer
- WITNESSES:** For — Christopher Trusty, Garland Police Department; (*Registered, but did not testify*: Brian England, City of Garland; Brenda Koegler, League of Women Voters of Texas; Kyle Ward, Texas PTA)
- Against — None
- On — (*Registered, but did not testify*: Kara Belew and Candace Stoltz, Texas Education Agency)
- BACKGROUND:** Education Code, sec. 37.125 establishes that a person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses, or threatens to exhibit or use a firearm on school property or on a school bus. The offense is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).
- Some have suggested a lesser charge should be applied when a student makes a threat but is not in possession of a firearm because of the severe consequences of having a felony charge on a student's record.
- DIGEST:** HB 2880 would amend the exhibition of firearms statute in the Education Code to allow for a reduced penalty when the actor threatened to exhibit or use a firearm, depending on whether the person possessed a firearm or one was within reach.

Threatening to exhibit or use a firearm in a school setting would remain a third-degree felony if the actor was in possession of or had immediate access to the firearm. Threatening to exhibit or use a firearm in the same setting without possession of or access to a firearm would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.