

Amend HB 1314 by adding as follows:

Sec. 12.131. REMOVAL OF STUDENTS TO DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The governing body of an open enrollment charter school shall adopt a code of conduct for its district or for each campus. In addition to establishing standards for behavior, the code of conduct shall outline generally the types of prohibited behaviors and their possible consequences, including forced withdrawal and or expulsion. The code of conduct shall also outline the school's due process procedures with respect to forced withdrawal and or expulsion. Notwithstanding any other provision of law, a final decision of the governing body of a charter school with respect to actions taken under the code of conduct cannot be appealed.

(b) An open-enrollment charter school may not elect to expel a student for a reason that is not authorization by Chapter 37.007.

(c) Notwithstanding any other provision, Section 37.002 and its provisions, wherever referenced, shall not be applicable to a charter school unless the governing body of the charter school so determines.

SECTION 2. Subsection (d), Section 25.001, Education Code, is amended to read as follows:

(d) For a person under the age of 18 years to establish a residence for the purpose of attending the public schools separate and apart from the person's parent, guardian, or other person having lawful control of the person under a court order, it must be established that the person's presence in the school district is not for the primary purpose of participation in extracurricular activities. The board of trustees shall determine whether an applicant for admission is a resident of the school district for purposes of attending the public schools and may adopt reasonable guidelines for making a determination as necessary to protect the best interests of students. The board of trustees is not required to admit a person under this subsection if the person:

(1) has engaged in conduct or misbehavior within the preceding year that has resulted in:

(A) removal to a disciplinary ~~[an]~~ alternative education program; or

(B) expulsion;

(2) has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or

(3) has been convicted of a criminal offense and is on probation or other conditional release.

SECTION 3. Subsection (d), Section 25.085, Education Code, is amended to read as follows:

(d) Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:

(1) an extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;

(2) an accelerated reading instruction program to which the student is assigned under Section 28.006(g);

(3) an accelerated instruction program to which the student is assigned under Section 28.0211; ~~[or]~~

(4) a basic skills program to which the student is assigned under Section 29.086; or

(5) a summer program provided under Section 37.008(1) or Section 37.021.

SECTION 4. Section 37.001, Education Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11 ~~[Section 11.251]~~, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student

to a disciplinary ~~[an]~~ alternative education program; ~~[and]~~

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify whether consideration is given to self-defense as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007; and

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

SECTION 5. Subsections (c) and (d), Section 37.002, Education Code, are amended to read as follows:

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary ~~[an]~~ alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary ~~[an]~~ alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only

alternative available.

SECTION 6. Section 37.006, Education Code, is amended by amending Subsections (a) through (d), (f), (h), and (l) and adding Subsections (m) and (n) to read as follows:

(a) A ~~[Except as provided by Section 37.007(a)(3) or (b), a]~~ student shall be removed from class and placed in a disciplinary ~~[an]~~ 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) 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 ~~[glue or aerosol paint]~~ under Sections 485.031 through 485.034 ~~[485.035]~~, Health and Safety Code~~[, or relating to volatile chemicals under Chapter 484, Health and Safety Code]~~; or

(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.

(b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in a disciplinary ~~[an]~~ alternative education program under Section 37.008 if the student engages in conduct that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) In addition to Subsection (a), a student shall be removed from class and placed in a disciplinary ~~[an]~~ alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in Title 5, Penal Code.

(d) In addition to Subsection (a), a student may be removed from class and placed in a disciplinary ~~[an]~~ alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than those defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in a disciplinary ~~[an]~~ alternative education program under Section 37.008 if the student engages in conduct described by Section

37.007. An elementary school student may not be placed in a disciplinary ~~[an]~~ alternative education program with any other student who is not an elementary school student.

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(l) Notwithstanding any other provision of this code, a student who is younger than six years of age may not be removed from class and placed in a disciplinary ~~[an]~~ alternative education program.

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) A principal or other appropriate administrator may but is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

SECTION 7. Subsection (e), Section 37.007, Education Code, is amended to read as follows:

(e) In accordance with 20 U.S.C. Section 7151 ~~[federal law]~~, a local educational agency, including a school district, home-rule

school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801 [~~2891~~], may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary [~~an~~] alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is [~~older than~~] 10 years of age or older in a disciplinary [~~an~~] alternative education program as provided in Section 37.008.

SECTION 8. Section 37.008, Education Code, is amended to read as follows:

Sec. 37.008. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS.

(a) Each school district shall provide a disciplinary [~~an~~] alternative education program that:

(1) is provided in a setting other than a student's regular classroom;

(2) is located on or off of a regular school campus;

(3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;

(4) focuses on English language arts, mathematics, science, history, and self-discipline;

(5) provides for students' educational and behavioral needs; [~~and~~]

(6) provides supervision and counseling;

(7) operates for the number of days required by Section 25.081;

(8) requires that to teach in an off-campus disciplinary alternative education program, each teacher meet all

certification requirements established under Subchapter B, Chapter 21; and

(9) notwithstanding Subdivision (8), requires that to teach in a disciplinary alternative education program of any kind, each teacher employed by a school district during the 2003-2004 school year or an earlier school year meet, not later than the beginning of the 2005-2006 school year, all certification requirements established under Subchapter B, Chapter 21.

(b) A disciplinary [~~An~~] alternative education program may provide for a student's transfer to:

- (1) a different campus;
- (2) a school-community guidance center; or
- (3) a community-based alternative school.

(c) An off-campus disciplinary alternative education program is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39.

(d) A school district may provide a disciplinary [~~an~~] alternative education program jointly with one or more other districts.

(e) Each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary [~~an~~] alternative education program.

(f) A student removed to a disciplinary [~~an~~] alternative education program is counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.

(g) A school district shall allocate to a disciplinary [~~an~~] alternative education program the same expenditure per student attending the disciplinary alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program.

(h) A school district may not place a student, other than a student suspended as provided under Section 37.005 or expelled as



provided under Section 37.007, in an unsupervised setting as a result of conduct for which a student may be placed in a disciplinary ~~[an]~~ alternative education program.

(i) On request of a school district, a regional education service center may provide to the district information on developing a disciplinary ~~[an]~~ alternative education program that takes into consideration the district's size, wealth, and existing facilities in determining the program best suited to the district.

(j) If a student placed in a disciplinary ~~[an]~~ alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by an open-enrollment charter school under Section 12.131 and the charter school provides to the district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

(A) the out-of-state district provides to the district a copy of the placement order; and

(B) the grounds for the placement by the out-of-state district are grounds for placement in the district in which the student is enrolling.

(j-1) If a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), the district shall reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review,

the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Section 37.006 or 37.007. A disciplinary [An] alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

(1) A school district is [~~not~~] required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework sufficient to allow advancement in grade before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection [~~other than a course specified by Subsection (a)~~].

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(-1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already

available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

(n) A school district may not, under a policy, contract, or other agreement with or for the benefit of a third party, agree to:

(1) remove a minimum number of students to a disciplinary alternative education program during the course of a school year; or

(2) place students in a disciplinary alternative education program for a minimum number of days.

SECTION 9. Section 37.009, Education Code, is amended by amending Subsections (a) through (e), (g), and (h) and adding Subsections (i) and (j) to read as follows:

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to

respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student ~~[as provided by Section 37.002 or 37.006, as applicable,]~~ for a period consistent with the student code of conduct. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(b) If a student's placement in a disciplinary ~~[an]~~ alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary ~~[an]~~ alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

(1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or

(2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary ~~[an]~~ alternative education program. If the period of the placement is inconsistent with the

guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student [under Section 37.002 or 37.006].

(e) A student placed in a disciplinary ~~[an]~~ alternative education program ~~[under Section 37.002 or 37.006]~~ shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 60 ~~[120]~~ days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(1) ~~[a course not specified under Section 37.008(a)]~~. At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary ~~[an]~~ alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

SECTION 10. Section 37.010, Education Code, is amended by amending Subsections (a) and (c) through (g) and adding Subsection (g-1) to read as follows:

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary ~~an~~ alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of

expulsion, except [~~, provided, however,~~] that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(c) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding with the district's board of trustees concerning the juvenile probation department's role in supervising and providing other support services for students in disciplinary alternative education programs, a court may not order a student expelled under Section 37.007 to attend a regular classroom, a regular campus, or a school district disciplinary alternative education program as a condition of probation.

(d) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding as described by Subsection (c), if a court orders a student to attend a disciplinary [~~an~~] alternative education program as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the juvenile court may not order the student to attend a disciplinary [~~an~~] alternative education program in a district without the district's consent until the student has successfully completed any sentencing requirements the court imposes.

(e) Any placement in a disciplinary [~~an~~] alternative education program by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.

(f) If a student is expelled under Section 37.007, on the recommendation of the committee established under Section 37.003 or on its own initiative, a district may readmit the student while the student is completing any court disposition requirements the court imposes. After the student has successfully completed any court disposition requirements the court imposes, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, if the student meets the requirements for admission into the public schools

established by this title, a district may not refuse to admit the student, but the district may place the student in the disciplinary alternative education program. Notwithstanding Section 37.002(d), the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary ~~[an]~~ alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion. A district may take any action permitted by this subsection if:

(1) the student was expelled by a school district in another state if:

(A) the out-of-state district provides to the district a copy of the expulsion order; and

(B) the grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

SECTION 11. Section 37.011, Education Code, is amended by



amending Subsections (a), (b), (h), (k), (l) and adding Subsection (k-1) to read as follows:

(a) The juvenile board of a county with a population greater than 125,000 shall develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Probation Commission. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative education program. For the purposes of this subchapter, only a disciplinary alternative education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program. A juvenile justice alternative education program in a county with a population of 125,000 or less:

(1) is not required to be approved by the Texas Juvenile Probation Commission; and

(2) is not subject to Subsection (c), (d), (f), or (g).

(b) If a student is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), the juvenile court shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution; and

(3) in determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student.

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under

Chapter 39, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Probation Commission, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The Texas Juvenile Probation Commission shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion required under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31 if the juvenile justice alternative education program receives funding from the Texas Juvenile Probation Commission under this subchapter.

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) identifies those categories of conduct that the school district has defined in its student code of conduct as constituting serious or persistent misbehavior for which a student may be placed in the juvenile justice alternative education program;

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the

school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(k-1) Unless otherwise agreed to in writing, an open-enrollment charter school that elects to expel students under Section 12.131 is subject to a memorandum of understanding entered into under Subsection (k) or negotiated by the open-enrollment charter and the county juvenile board.

(1) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b), (c), and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious or persistent misbehavior shall be admitted into the juvenile justice alternative education program.

SECTION 12. Section 37.012, Education Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Subject to Section 37.011(n), the school district in

which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007 [~~on a basis other than Section 37.007(a), (d), or (e)~~] shall, if the student is served by the juvenile justice alternative education program, provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2).

(d) A school district is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

SECTION 13. Section 37.013, Education Code, is amended to read as follows:

Sec. 37.013. COORDINATION BETWEEN SCHOOL DISTRICTS AND JUVENILE BOARDS. The board of trustees of the school district or the board's designee shall at the call of the president of the board of trustees regularly meet with the juvenile board for the county in which the district's central administrative office is located or the juvenile board's designee concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs. Matters for discussion shall include service by probation officers at the disciplinary alternative education program site, recruitment of volunteers to serve as mentors and provide tutoring services, and coordination with other social service agencies.

SECTION 14. Subsections (a) and (c), Section 37.019, Education Code, are amended to read as follows:

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary [~~the~~] alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a

school-sponsored activity.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the ~~[term of the student's]~~ emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability ~~[the requirements of 20 U.S.C. Section 1415(j) and (k)]~~.

SECTION 15. Section 37.020, Education Code, is amended to read as follows:

Sec. 37.020. REPORTS RELATING TO EXPULSIONS AND DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM PLACEMENTS. (a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.

(b) For ~~+~~

~~[(1) — for]~~ each placement in a disciplinary ~~[an]~~ alternative education program established under Section 37.008, the district shall report:

(1) ~~[(A)]~~ information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) ~~[(B)]~~ information indicating whether the placement was based on:

(A) ~~[(i)]~~ conduct violating the student code of conduct adopted under Section 37.001;

(B) ~~[(ii)]~~ conduct for which a student may be removed from class under Section 37.002(b);

(C) [~~(iii)~~] conduct for which placement in a disciplinary [~~an~~] alternative education program is required by Section 37.006; or

(D) [~~(iv)~~] conduct occurring while a student was enrolled in another district and for which placement in a disciplinary [~~an~~] alternative education program is permitted by Section 37.008(j); [~~and~~]

(3) [~~(C)~~] the number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

(4) the number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(c) For [~~(2)~~ ~~for~~] each expulsion under Section 37.007, the district shall report:

(1) [~~(A)~~] information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) [~~(B)~~] information indicating whether the expulsion was based on:

(A) [~~(i)~~] conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or

(B) [~~(ii)~~] conduct[, ~~other than conduct described by Subparagraph (iii),~~] for which expulsion is permitted under Section 37.007; [~~or~~

~~[(iii) serious or persistent misbehavior occurring while the student was placed in an alternative education program,]~~

(3) [~~(C)~~] the number of full or partial days the student was expelled; [~~and~~]

(4) [~~(D)~~] information indicating whether:

(A) [~~(i)~~] the student was placed in a juvenile justice alternative education program under Section 37.011;

(B) [~~(ii)~~] the student was placed in a

disciplinary [~~an~~] alternative education program; or

(C) [~~(iii)~~] the student was not placed in a juvenile justice or other disciplinary alternative education program; and

(5) the number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

SECTION 16. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.021 to read as follows:

Sec. 37.021. OPPORTUNITY TO COMPLETE COURSES DURING IN-SCHOOL AND CERTAIN OTHER PLACEMENTS. (a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

SECTION 17. Subsection (b), Section 37.121, Education Code, is amended to read as follows:

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary [~~an~~] alternative education program any student under the person's control who violates Subsection (a).

SECTION 18. Subsection (e), Section 39.053, Education Code, is amended to read as follows:

(e) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by gender, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(5) the number of students placed in a disciplinary ~~[an]~~ alternative education program under Chapter 37.

SECTION 19. Subsection (b), Article 15.27, Code of Criminal Procedure, is amended to read as follows:

(b) On conviction, deferred prosecution, or deferred adjudication or ~~[an]~~ an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Oral notification must be given within 24 hours of the time of the order ~~[determination of guilt,]~~ or on the next school day. The superintendent shall promptly notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded.

SECTION 20. Subdivision (2), Subsection (e), Article 15.27, Code of Criminal Procedure, is amended to read as follows:

(2) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

SECTION 21. Subsection (g), Article 15.27, Code of Criminal Procedure, is amended to read as follows:

(g) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working



days, notify the school district that removed a student to a disciplinary ~~[an]~~ alternative education program under Section 37.006, Education Code, if:

(1) prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

(2) the court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

SECTION 22. Section 164.006, Health and Safety Code, is amended to read as follows:

Sec. 164.006. SOLICITING AND CONTRACTING WITH CERTAIN REFERRAL SOURCES. A treatment facility or a person employed or under contract with a treatment facility, if acting on behalf of the treatment facility, may not:

(1) contact a referral source or potential client for the purpose of soliciting, directly or indirectly, a referral of a patient to the treatment facility without disclosing its soliciting agent's, employee's, or contractor's affiliation with the treatment facility;

(2) offer to provide or provide mental health or chemical dependency services to a public or private school in this state, on a part-time or full-time basis, the services of any of its employees or agents who make, or are in a position to make, a referral, if the services are provided on an individual basis to individual students or their families. Nothing herein prohibits a treatment facility from:

(A) offering or providing educational programs in group settings to public schools in this state if the affiliation between the educational program and the treatment facility is disclosed;

(B) providing counseling services to a public school in this state in an emergency or crisis situation if the services are provided in response to a specific request by a school; provided that, under no circumstances may a student be referred to

the treatment facility offering the services; or

(C) entering into a contract under Section 464.020 with the board of trustees of a school district with a disciplinary ~~[an]~~ alternative education program ~~[under Section 464.020]~~, or with the board's designee, for the provision of chemical dependency treatment services;

(3) provide to an entity of state or local government, on a part-time or full-time basis, the mental health or chemical dependency services of any of its employees, agents, or contractors who make or are in a position to make referrals unless:

(A) the treatment facility discloses to the governing authority of the entity:

(i) the employee's, agent's, or contractor's relationship to the facility; and

(ii) the fact that the employee, agent, or contractor might make a referral, if permitted, to the facility; and

(B) the employee, agent, or contractor makes a referral only if:

(i) the treatment facility obtains the governing authority's authorization in writing for the employee, agent, or contractor to make the referrals; and

(ii) the employee, agent, or contractor discloses to the prospective patient the employee's, agent's, or contractor's relationship to the facility at initial contact; or

(4) in relation to intervention and assessment services, contract with, offer to remunerate, or remunerate a person who operates an intervention and assessment service that makes referrals to a treatment facility for inpatient treatment of mental illness or chemical dependency unless the intervention and assessment service is:

(A) operated by a community mental health and mental retardation center funded by the Texas Department of Mental Health and Mental Retardation;

(B) operated by a county or regional medical society;

(C) a qualified mental health referral service as

defined by Section 164.007; or

(D) owned and operated by a nonprofit or not-for-profit organization offering counseling concerning family violence, help for runaway children, or rape.

SECTION 23. Section 464.020, Health and Safety Code, is amended to read as follows:

Sec. 464.020. ADDITIONAL REQUIREMENTS FOR DISCIPLINARY ALTERNATIVE EDUCATION TREATMENT PROGRAMS. (a) A disciplinary [~~An~~] alternative education program under Section 37.008, Education Code, may apply for a license under this chapter to offer chemical dependency treatment services.

(b) The board of trustees of a school district with a disciplinary [~~an~~] alternative education program, or the board's designee, shall employ a mental health professional, as defined by Section 164.003, to provide the services authorized by a license issued under this chapter to the disciplinary alternative education program.

(c) The commission may not issue a license that authorizes a disciplinary [~~an~~] alternative education program to provide detoxification or residential services.

(d) The board of trustees of a school district with a disciplinary [~~an~~] alternative education program, or the board's designee, may contract with a private treatment facility or a person employed by or under contract with a private treatment facility to provide chemical dependency treatment services. The contract may not permit the services to be provided at a site that offers detoxification or residential services. Section 164.006 applies to a contract made under this section.

SECTION 24. (a) This Act applies beginning with the 2003-2004 school year, except that Subdivision (8), Subsection (a), Section 37.008, Education Code, as added by this Act, applies beginning with the 2004-2005 school year.

(b) The changes in law made by this Act relating to conduct for which a student may be removed to a disciplinary alternative education program or expelled apply to conduct that occurs on or after the effective date of this Act.

SECTION 25. This Act takes effect immediately if it

receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Renumber sections accordingly.