

AN ACT

relating to public school student discipline.

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

SECTION 1. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.131 to read 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. The code of conduct shall also outline the school's due process procedures with respect to expulsion. Notwithstanding any other provision of law, a final decision of the governing body of an open-enrollment charter school with respect to actions taken under the code of conduct may not be appealed.

(b) An open-enrollment charter school may not elect to expel a student for a reason that is not authorized by Section 37.007 or specified in the school's code of conduct as conduct that may result in expulsion.

(c) Notwithstanding any other provision, Section 37.002 and its provisions, wherever referenced, are not applicable to an open-enrollment charter school unless the governing body of the school so determines.

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

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

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

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

19 (B) expulsion;

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

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

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

27 (d) Unless specifically exempted by Section 25.086, a

1 student enrolled in a school district must attend:

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

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

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

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

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

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

17 (a) The board of trustees of an independent school district
18 shall, with the advice of its district-level committee established
19 under Subchapter F, Chapter 11 [~~Section 11.251~~], adopt a student
20 code of conduct for the district. The student code of conduct must
21 be posted and prominently displayed at each school campus or made
22 available for review at the office of the campus principal. In
23 addition to establishing standards for student conduct, the student
24 code of conduct must:

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

1 (2) specify conditions that authorize or require a
2 principal or other appropriate administrator to transfer a student
3 to a disciplinary ~~[an]~~ alternative education program; ~~[and]~~

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

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

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

12 (A) a removal under Section 37.006; and

13 (B) an expulsion under Section 37.007; and

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

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

21 SECTION 5. Sections 37.002(c) and (d), Education Code, are
22 amended to read as follows:

23 (c) If a teacher removes a student from class under
24 Subsection (b), the principal may place the student into another
25 appropriate classroom, into in-school suspension, or into a
26 disciplinary ~~[an]~~ alternative education program as provided by
27 Section 37.008. The principal may not return the student to that

1 teacher's class without the teacher's consent unless the committee
2 established under Section 37.003 determines that such placement is
3 the best or only alternative available. The terms of the removal
4 may prohibit the student from attending or participating in
5 school-sponsored or school-related activity.

6 (d) A teacher shall remove from class and send to the
7 principal for placement in a disciplinary ~~[an]~~ alternative
8 education program or for expulsion, as appropriate, a student who
9 engages in conduct described under Section 37.006 or 37.007. The
10 student may not be returned to that teacher's class without the
11 teacher's consent unless the committee established under Section
12 37.003 determines that such placement is the best or only
13 alternative available.

14 SECTION 6. Section 37.0021, Education Code, is amended by
15 amending Subsections (a) through (d) and adding Subsection (g) to
16 read as follows:

17 (a) It is the policy of this state to treat with dignity and
18 respect all students, including students with disabilities who
19 receive special education services under Subchapter A, Chapter 29
20 ~~[with dignity and respect]~~. A student with a disability who
21 receives special education services under Subchapter A, Chapter 29,
22 may not be confined in a locked box, locked closet, or other
23 specially designed locked space as either a discipline management
24 practice or a behavior management technique.

25 (b) In this section:

26 (1) "Restraint" means the use of physical force or a
27 mechanical device to significantly restrict the free movement of

1 all or a portion of a student's body.

2 (2) "Seclusion" means a behavior management technique
3 in which a student is confined in a locked box, locked closet, or
4 locked room that:

5 (A) is designed solely to seclude a person; and

6 (B) contains less than 50 square feet of space.

7 (3) "Time-out" means a behavior management technique
8 in which, to provide a student with an opportunity to regain
9 self-control, the student is separated from other students for a
10 limited period in a setting:

11 (A) that is not locked; and

12 (B) from which the exit ~~[student]~~ is not
13 physically blocked by furniture, a closed door held shut from the
14 outside, or another inanimate object ~~[prevented from leaving]~~.

15 (c) A school district employee or volunteer or an
16 independent contractor of a district may not place a student in
17 seclusion. This subsection does not apply to the use of seclusion
18 in a court-ordered placement, other than a placement in an
19 educational program of a school district, or in a placement or
20 facility to which the following law, rules, or regulations apply:

21 (1) the Children's Health Act of 2000, Pub. L. No.
22 106-310, any subsequent amendments to that Act, any regulations
23 adopted under that Act, or any subsequent amendments to those
24 regulations;

25 (2) 40 T.A.C. Sections 720.1001-720.1013; or

26 (3) 25 T.A.C. Section 412.308(e).

27 (d) The commissioner by rule shall adopt procedures for the

1 use of restraint and time-out by a school district employee or
2 volunteer or an independent contractor of a district in the case of
3 a student with a disability receiving special education services
4 under Subchapter A, Chapter 29. A procedure adopted under this
5 subsection must:

6 (1) be consistent with:

7 (A) professionally accepted practices and
8 standards of student discipline and techniques for behavior
9 management; and

10 (B) relevant health and safety standards; and

11 (2) identify any discipline management practice or
12 behavior management technique that requires a district employee or
13 volunteer or an independent contractor of a district to be trained
14 before using that practice or technique.

15 (g) This section and any rules or procedures adopted under
16 this section do not apply to:

17 (1) a peace officer while performing law enforcement
18 duties;

19 (2) juvenile probation, detention, or corrections
20 personnel; or

21 (3) an educational services provider with whom a
22 student is placed by a judicial authority, unless the services are
23 provided in an educational program of a school district.

24 SECTION 7. Section 37.003, Education Code, is amended by
25 adding Subsection (c) to read as follows:

26 (c) The committee's placement determination regarding a
27 student with a disability who receives special education services

1 under Subchapter A, Chapter 29, is subject to the requirements of
2 the Individuals with Disabilities Education Act (20 U.S.C. Section
3 1400 et seq.) and federal regulations, state statutes, and agency
4 requirements necessary to carry out federal law or regulations or
5 state law relating to special education.

6 SECTION 8. Section 37.005(a), Education Code, is amended to
7 read as follows:

8 (a) The principal or other appropriate administrator may
9 suspend a student who engages in conduct identified in the student
10 code of conduct adopted under Section 37.001 as conduct for which a
11 student may be suspended [~~for which the student may be placed in an~~
12 ~~alternative education program under this subchapter~~].

13 SECTION 9. Section 37.006, Education Code, is amended by
14 amending Subsections (a), (b), (c), (d), (f), (h), and (l) and
15 adding Subsections (m) and (n) to read as follows:

16 (a) A [~~Except as provided by Section 37.007(a)(3) or (b), a~~]
17 student shall be removed from class and placed in a disciplinary
18 [~~an~~] alternative education program as provided by Section 37.008 if
19 the student:

20 (1) engages in conduct involving a public school that
21 contains the elements of the offense of false alarm or report under
22 Section 42.06, Penal Code, or terroristic threat under Section
23 22.07, Penal Code; or

24 (2) commits the following on or within 300 feet of
25 school property, as measured from any point on the school's real
26 property boundary line, or while attending a school-sponsored or
27 school-related activity on or off of school property:

1 (A) engages in conduct punishable as a felony;

2 (B) engages in conduct that contains the elements
3 of the offense of assault under Section 22.01(a)(1), Penal Code;

4 (C) sells, gives, or delivers to another person
5 or possesses or uses or is under the influence 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.; or

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

11 (D) sells, gives, or delivers to another person
12 an alcoholic beverage, as defined by Section 1.04, Alcoholic
13 Beverage Code, commits a serious act or offense while under the
14 influence of alcohol, or possesses, uses, or is under the influence
15 of an alcoholic beverage;

16 (E) engages in conduct that contains the elements
17 of an offense relating to an abusable volatile chemical [~~glue or~~
18 ~~aerosol paint~~] under Sections 485.031 through 485.034 [~~485.035~~],
19 Health and Safety Code[~~, or relating to volatile chemicals under~~
20 ~~Chapter 484, Health and Safety Code~~]; or

21 (F) engages in conduct that contains the elements
22 of the offense of public lewdness under Section 21.07, Penal Code,
23 or indecent exposure under Section 21.08, Penal Code.

24 (b) Except as provided by Section 37.007(d), a student shall
25 be removed from class and placed in a disciplinary [~~an~~] alternative
26 education program under Section 37.008 if the student engages in
27 conduct on or off of school property that contains the elements of

1 the offense of retaliation under Section 36.06, Penal Code, against
2 any school employee.

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

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

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

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

17 (d) In addition to Subsections [~~Subsection~~] (a), (b), and
18 (c), a student may be removed from class and placed in a
19 disciplinary [~~an~~] alternative education program under Section
20 37.008 based on conduct occurring off campus and while the student
21 is not in attendance at a school-sponsored or school-related
22 activity if:

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

27 (2) the continued presence of the student in the

1 regular classroom threatens the safety of other students or
2 teachers or will be detrimental to the educational process.

3 (f) Subject to Section 37.007(e), a student who is younger
4 than 10 years of age shall be removed from class and placed in a
5 disciplinary [~~an~~] alternative education program under Section
6 37.008 if the student engages in conduct described by Section
7 37.007. An elementary school student may not be placed in a
8 disciplinary [~~an~~] alternative education program with any other
9 student who is not an elementary school student.

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

26 (l) Notwithstanding any other provision of this code, other
27 than Section 37.007(e)(2), a student who is younger than six years

1 of age may not be removed from class and placed in a disciplinary
2 ~~[an]~~ alternative education program.

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

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

13 SECTION 10. Sections 37.007(a), (b), (e), and (g),
14 Education Code, are amended to read as follows:

15 (a) A student shall be expelled from a school if the
16 student, on school property or while attending a school-sponsored
17 or school-related activity on or off of school property:

18 (1) uses, exhibits, or possesses:

19 (A) a firearm as defined by Section 46.01(3),
20 Penal Code;

21 (B) an illegal knife as defined by Section
22 46.01(6), Penal Code, or by local policy;

23 (C) a club as defined by Section 46.01(1), Penal
24 Code; or

25 (D) a weapon listed as a prohibited weapon under
26 Section 46.05, Penal Code;

27 (2) engages in conduct that contains the elements of

1 the offense of:

2 (A) aggravated assault under Section 22.02,
3 Penal Code, sexual assault under Section 22.011, Penal Code, or
4 aggravated sexual assault under Section 22.021, Penal Code;

5 (B) arson under Section 28.02, Penal Code;

6 (C) murder under Section 19.02, Penal Code,
7 capital murder under Section 19.03, Penal Code, or criminal
8 attempt, under Section 15.01, Penal Code, to commit murder or
9 capital murder;

10 (D) indecency with a child under Section 21.11,
11 Penal Code; [~~or~~]

12 (E) aggravated kidnapping under Section 20.04,
13 Penal Code;

14 (F) aggravated robbery under Section 29.03,
15 Penal Code;

16 (G) manslaughter under Section 19.04, Penal
17 Code; or

18 (H) criminally negligent homicide under Section
19 19.05, Penal Code; or

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

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 [~~glue or~~
15 ~~aerosol paint~~] under Sections 485.031 through 485.034 [~~485.035~~],
16 Health and Safety Code[~~, or relating to volatile chemicals under~~
17 ~~Chapter 484, Health and Safety Code~~]; [~~or~~]

18 (C) engages in conduct that contains the elements
19 of an offense under Section 22.01(a)(1), Penal Code, against a
20 school district employee or a volunteer as defined by Section
21 22.053; or

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

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

27 (A) engages in conduct specified by Subsection

1 (a); or

2 (B) possesses a firearm, as defined by 18 U.S.C.
3 Section 921.

4 (e) In accordance with 20 U.S.C. Section 7151 [~~federal law~~],
5 a local educational agency, including a school district, home-rule
6 school district, or open-enrollment charter school, shall expel a
7 student who brings a firearm, as defined by 18 U.S.C. Section 921,
8 to school. The student must be expelled from the student's regular
9 campus for a period of at least one year, except that:

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

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

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

23 (g) A school district shall inform each teacher who has
24 regular contact with a student through a classroom assignment of
25 the conduct of a student who has engaged in any violation listed in
26 this section. A teacher shall keep the information received in this
27 subsection confidential. The State Board for Educator

1 Certification may revoke or suspend the certification of a teacher
2 who intentionally violates this subsection.

3 SECTION 11. Section 37.008, Education Code, is amended to
4 read as follows:

5 Sec. 37.008. DISCIPLINARY ALTERNATIVE EDUCATION
6 PROGRAMS. (a) Each school district shall provide a disciplinary
7 ~~[an]~~ alternative education program that:

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

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

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

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

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

18 (6) provides supervision and counseling;

19 (7) requires that to teach in an off-campus
20 disciplinary alternative education program, each teacher meet all
21 certification requirements established under Subchapter B, Chapter
22 21; and

23 (8) notwithstanding Subdivision (7), requires that to
24 teach in a disciplinary alternative education program of any kind,
25 each teacher employed by a school district during the 2003-2004
26 school year or an earlier school year meet, not later than the
27 beginning of the 2005-2006 school year, all certification

1 requirements established under Subchapter B, Chapter 21.

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

4 (1) a different campus;

5 (2) a school-community guidance center; or

6 (3) a community-based alternative school.

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

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

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

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

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

1 education program.

2 (h) A school district may not place a student, other than a
3 student suspended as provided under Section 37.005 or expelled as
4 provided under Section 37.007, in an unsupervised setting as a
5 result of conduct for which a student may be placed in a
6 disciplinary [~~an~~] alternative education program.

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

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

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

27 (2) the student was placed in a disciplinary

1 alternative education program by a school district in another state
2 and:

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

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

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

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

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

19 (k) A program of educational and support services may be
20 provided to a student and the student's parents when the offense
21 involves drugs or alcohol as specified under Section 37.006 or
22 37.007. A disciplinary [~~An~~] alternative education program that
23 provides chemical dependency treatment services must be licensed
24 under Chapter 464, Health and Safety Code.

25 (l) A school district is [~~not~~] required to provide in the
26 district's disciplinary alternative education program a course
27 necessary to fulfill a student's high school graduation

1 requirements only as provided by this subsection. A school
2 district shall offer a student removed to a disciplinary
3 alternative education program an opportunity to complete
4 coursework before the beginning of the next school year. The school
5 district may provide the student an opportunity to complete
6 coursework through any method available, including a
7 correspondence course, distance learning, or summer school. The
8 district may not charge the student for a course provided under this
9 subsection [~~other than a course specified by Subsection (a)~~].

10 (m) The commissioner shall adopt rules necessary to
11 evaluate annually the performance of each district's disciplinary
12 alternative education program established under this subchapter.
13 The evaluation required by this section shall be based on
14 indicators defined by the commissioner, but must include student
15 performance on assessment instruments required under Sections
16 39.023(a) and (c). Academically, the mission of disciplinary
17 alternative education programs shall be to enable students to
18 perform at grade level.

19 (m-1) The commissioner shall develop a process for
20 evaluating a school district disciplinary alternative education
21 program electronically. The commissioner shall also develop a
22 system and standards for review of the evaluation or use systems
23 already available at the agency. The system must be designed to
24 identify districts that are at high risk of having inaccurate
25 disciplinary alternative education program data or of failing to
26 comply with disciplinary alternative education program
27 requirements. The commissioner shall notify the board of trustees

1 of a district of any objection the commissioner has to the
2 district's disciplinary alternative education program data or of a
3 violation of a law or rule revealed by the data, including any
4 violation of disciplinary alternative education program
5 requirements, or of any recommendation by the commissioner
6 concerning the data. If the data reflect that a penal law has been
7 violated, the commissioner shall notify the county attorney,
8 district attorney, or criminal district attorney, as appropriate,
9 and the attorney general. The commissioner is entitled to access to
10 all district records the commissioner considers necessary or
11 appropriate for the review, analysis, or approval of disciplinary
12 alternative education program data.

13 SECTION 12. Subchapter A, Chapter 37, Education Code, is
14 amended by adding Section 37.0081 to read as follows:

15 Sec. 37.0081. PLACEMENT OF CERTAIN STUDENTS IN DISCIPLINARY
16 ALTERNATIVE EDUCATION PROGRAMS. (a) Notwithstanding any other
17 provision of this subchapter, the board of trustees of a school
18 district, or the board's designee, after an opportunity for a
19 hearing may elect to place a student in a disciplinary alternative
20 education program under Section 37.008 if:

21 (1) the student:

22 (A) has received deferred prosecution under
23 Section 53.03, Family Code, for conduct defined as a felony offense
24 in Title 5, Penal Code; or

25 (B) has been found by a court or jury to have
26 engaged in delinquent conduct under Section 54.03, Family Code, for
27 conduct defined as a felony offense in Title 5, Penal Code; and

1 (2) the board or the board's designee determines that
2 the student's presence in the regular classroom:

3 (A) threatens the safety of other students or
4 teachers;

5 (B) will be detrimental to the educational
6 process; or

7 (C) is not in the best interests of the
8 district's students.

9 (b) Any decision of the board of trustees or the board's
10 designee under this section is final and may not be appealed.

11 (c) The board of trustees or the board's designee may order
12 placement in accordance with this section regardless of:

13 (1) the date on which the student's conduct occurred;

14 (2) the location at which the conduct occurred;

15 (3) whether the conduct occurred while the student was
16 enrolled in the district; or

17 (4) whether the student has successfully completed any
18 court disposition requirements imposed in connection with the
19 conduct.

20 (d) Notwithstanding Section 37.009(c) or any other
21 provision of this subchapter, the board of trustees or the board's
22 designee may order placement in accordance with this section for
23 any period considered necessary by the board or the board's
24 designee in connection with the determination made under Subsection
25 (a)(2). A student placed in a disciplinary alternative education
26 program in accordance with this section is entitled to the periodic
27 review prescribed by Section 37.009(e).

1 SECTION 13. Section 37.009, Education Code, is amended by
2 amending Subsections (a)-(e), (g), and (h) and adding Subsections
3 (i) and (j) to read as follows:

4 (a) Not later than the third class day after the day on which
5 a student is removed from class by the teacher under Section
6 37.002(b) or (d) or by the school principal or other appropriate
7 administrator under Section 37.001(a)(2) or 37.006, the principal
8 or other appropriate administrator shall schedule a conference
9 among the principal or other appropriate administrator, a parent or
10 guardian of the student, the teacher removing the student from
11 class, if any, and the student. At the conference, the student is
12 entitled to written or oral notice of the reasons for the removal,
13 an explanation of the basis for the removal, and an opportunity to
14 respond to the reasons for the removal. The student may not be
15 returned to the regular classroom pending the conference.
16 Following the conference, and whether or not each requested person
17 is in attendance after valid attempts to require the person's
18 attendance, the principal shall order the placement of the student
19 ~~[as provided by Section 37.002 or 37.006, as applicable,]~~ for a
20 period consistent with the student code of conduct. If school
21 district policy allows a student to appeal to the board of trustees
22 or the board's designee a decision of the principal or other
23 appropriate administrator, other than an expulsion under Section
24 37.007, the decision of the board or the board's designee is final
25 and may not be appealed. If the period of the placement is
26 inconsistent with the guidelines included in the student code of
27 conduct under Section 37.001(a)(5), the order must give notice of

1 the inconsistency. The period of the placement may not exceed one
2 year unless, after a review, the district determines that:

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

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

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

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

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

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

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

1 guidelines included in the student code of conduct under Section
2 37.001(a)(5), the order must give notice of the inconsistency. The
3 period of the placement may not exceed one year unless, after a
4 review, the district determines that:

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

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

9 (e) A student placed in a disciplinary [~~an~~] alternative
10 education program [~~under Section 37.002 or 37.006~~] shall be
11 provided a review of the student's status, including a review of the
12 student's academic status, by the board's designee at intervals not
13 to exceed 120 days. In the case of a high school student, the
14 board's designee, with the student's parent or guardian, shall
15 review the student's progress towards meeting high school
16 graduation requirements and shall establish a specific graduation
17 plan for the student. The district is not required under this
18 subsection to provide a course in the district's disciplinary
19 alternative education program except as required by Section
20 37.008(1) [a course not specified under Section 37.008(a)]. At the
21 review, the student or the student's parent or guardian must be
22 given the opportunity to present arguments for the student's return
23 to the regular classroom or campus. The student may not be returned
24 to the classroom of the teacher who removed the student without that
25 teacher's consent. The teacher may not be coerced to consent.

26 (g) The board or the board's designee shall deliver to the
27 student and the student's parent or guardian a copy of the order

1 placing the student in a disciplinary [~~an~~] alternative education
2 program under Section 37.001, 37.002, or 37.006 or expelling the
3 student under Section 37.007.

4 (h) If the period of an expulsion is inconsistent with the
5 guidelines included in the student code of conduct under Section
6 37.001 (a)(5), the order must give notice of the inconsistency. The
7 period of an expulsion may not exceed one year unless, after a
8 review, the district determines that:

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

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

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

27 (j) If, during the term of a placement or expulsion ordered

1 under this section, a student engages in additional conduct for
2 which placement in a disciplinary alternative education program or
3 expulsion is required or permitted, additional proceedings may be
4 conducted under this section regarding that conduct and the
5 principal or board, as appropriate, may enter an additional order
6 as a result of those proceedings.

7 SECTION 14. Subchapter A, Chapter 37, Education Code, is
8 amended by adding Section 37.0091 to read as follows:

9 Sec. 37.0091. NOTICE TO NONCUSTODIAL PARENT. (a) A
10 noncustodial parent may request in writing that a school district
11 or school, for the remainder of the school year in which the request
12 is received, provide that parent with a copy of any written
13 notification relating to student misconduct under Section 37.006 or
14 37.007 that is generally provided by the district or school to a
15 student's parent or guardian.

16 (b) A school district or school may not unreasonably deny a
17 request authorized by Subsection (a).

18 (c) Notwithstanding any other provision of this section, a
19 school district or school shall comply with any applicable court
20 order of which the district or school has knowledge.

21 SECTION 15. Section 37.010, Education Code, is amended by
22 amending Subsections (a) and (c)-(g) and adding Subsection (g-1) to
23 read as follows:

24 (a) Not later than the second business day after the date a
25 hearing is held under Section 37.009, the board of trustees of a
26 school district or the board's designee shall deliver a copy of the
27 order placing a student in a disciplinary ~~[an]~~ alternative

1 education program under Section 37.006 or expelling a student under
2 Section 37.007 and any information required under Section 52.04,
3 Family Code, to the authorized officer of the juvenile court in the
4 county in which the student resides. In a county that operates a
5 program under Section 37.011, an expelled student shall to the
6 extent provided by law or by the memorandum of understanding
7 immediately attend the educational program from the date of
8 expulsion, except [~~; provided, however,~~] that in a county with a
9 population greater than 125,000, every expelled student who is not
10 detained or receiving treatment under an order of the juvenile
11 court must be enrolled in an educational program.

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

21 (d) Unless the juvenile board for the county in which the
22 district's central administrative office is located has entered
23 into a memorandum of understanding as described by Subsection (c),
24 if a court orders a student to attend a disciplinary [~~an~~]
25 alternative education program as a condition of probation once
26 during a school year and the student is referred to juvenile court
27 again during that school year, the juvenile court may not order the

1 student to attend a disciplinary [~~an~~] alternative education program
2 in a district without the district's consent until the student has
3 successfully completed any sentencing requirements the court
4 imposes.

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

9 (f) If a student is expelled under Section 37.007, on the
10 recommendation of the committee established under Section 37.003 or
11 on its own initiative, a district may readmit the student while the
12 student is completing any court disposition requirements the court
13 imposes. After the student has successfully completed any court
14 disposition requirements the court imposes, including conditions
15 of a deferred prosecution ordered by the court, or such conditions
16 required by the prosecutor or probation department, if the student
17 meets the requirements for admission into the public schools
18 established by this title, a district may not refuse to admit the
19 student, but the district may place the student in the disciplinary
20 alternative education program. Notwithstanding Section 37.002(d),
21 the student may not be returned to the classroom of the teacher
22 under whose supervision the offense occurred without that teacher's
23 consent. The teacher may not be coerced to consent.

24 (g) If an expelled student enrolls in another school
25 district, the board of trustees of the district that expelled the
26 student shall provide to the district in which the student enrolls,
27 at the same time other records of the student are provided, a copy

1 of the expulsion order and the referral to the authorized officer of
2 the juvenile court. The district in which the student enrolls may
3 continue the expulsion under the terms of the order, may place the
4 student in a disciplinary [an] alternative education program for
5 the period specified by the expulsion order, or may allow the
6 student to attend regular classes without completing the period of
7 expulsion. A district may take any action permitted by this
8 subsection if the student was expelled by a school district in
9 another state if:

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

12 (2) the grounds for the expulsion are also grounds for
13 expulsion in the district in which the student is enrolling.

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

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

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

25 SECTION 16. Section 37.011, Education Code, is amended by
26 amending Subsections (a), (b), (h), and (k) and adding Subsection
27 (b-1) to read as follows:

1 (a) The juvenile board of a county with a population greater
2 than 125,000 shall develop a juvenile justice alternative education
3 program, subject to the approval of the Texas Juvenile Probation
4 Commission. The juvenile board of a county with a population of
5 125,000 or less may develop a juvenile justice alternative
6 education program. For the purposes of this subchapter, only a
7 disciplinary alternative education program operated under the
8 authority of a juvenile board of a county is considered a juvenile
9 justice alternative education program. A juvenile justice
10 alternative education program in a county with a population of
11 125,000 or less:

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

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

15 (b) If a student admitted into the public schools of a
16 school district under Section 25.001(b) is expelled from school for
17 conduct for which expulsion is required under Section 37.007(a),
18 (d), or (e), the juvenile court, the juvenile board, or the juvenile
19 board's designee, as appropriate, shall:

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

26 (2) if the student is placed on deferred prosecution
27 under Section 53.03, Family Code, by the court, prosecutor, or

1 probation department, require the student to immediately attend the
2 juvenile justice alternative education program in the county in
3 which the student resides for a period not to exceed six months as a
4 condition of the deferred prosecution; ~~and~~

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

8 (4) provide timely educational services to the student
9 in the juvenile justice alternative education program in the county
10 in which the student resides, regardless of the student's age or
11 whether the juvenile court has jurisdiction over the student.

12 (b-1) Subsection (b)(4) does not require that educational
13 services be provided to a student who is not entitled to admission
14 into the public schools of a school district under Section
15 25.001(b).

16 (h) Academically, the mission of juvenile justice
17 alternative education programs shall be to enable students to
18 perform at grade level. For purposes of accountability under
19 Chapter 39, a student enrolled in a juvenile justice alternative
20 education program is reported as if the student were enrolled at the
21 student's assigned campus in the student's regularly assigned
22 education program, including a special education program. Annually
23 the Texas Juvenile Probation Commission, with the agreement of the
24 commissioner, shall develop and implement a system of
25 accountability consistent with Chapter 39, where appropriate, to
26 assure that students make progress toward grade level while
27 attending a juvenile justice alternative education program. The

1 Texas Juvenile Probation Commission shall adopt rules for the
2 distribution of funds appropriated under this section to juvenile
3 boards in counties required to establish juvenile justice
4 alternative education programs. Except as determined by the
5 commissioner, a student served by a juvenile justice alternative
6 education program on the basis of an expulsion required under
7 Section 37.007(a), (d), or (e) is not eligible for Foundation
8 School Program funding under Chapter 42 or 31 if the juvenile
9 justice alternative education program receives funding from the
10 Texas Juvenile Probation Commission under this subchapter.

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

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

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

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

27 (4) identifies and requires a timely placement and

1 specifies a term of placement for expelled students for whom the
2 school district has received a notice under Section 52.041(d),
3 Family Code;

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

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

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

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

17 SECTION 17. Section 37.012, Education Code, is amended by
18 amending Subsection (a) and adding Subsection (d) to read as
19 follows:

20 (a) Subject to Section 37.011(n), the school district in
21 which a student is enrolled on the date the student is expelled for
22 conduct for which expulsion is permitted but not required under
23 Section 37.007 [~~on a basis other than Section 37.007(a), (d), or~~
24 ~~(e)] shall, if the student is served by the juvenile justice
25 alternative education program, provide funding to the juvenile
26 board for the portion of the school year for which the juvenile
27 justice alternative education program provides educational~~

1 services in an amount determined by the memorandum of understanding
2 under Section 37.011(k)(2).

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

7 SECTION 18. Section 37.013, Education Code, is amended to
8 read as follows:

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

21 SECTION 19. Section 37.015(a), Education Code, is amended
22 to read as follows:

23 (a) The principal of a public or private primary or
24 secondary school, or a person designated by the principal under
25 Subsection (d), shall notify any school district police department
26 and the police department of the municipality in which the school is
27 located or, if the school is not in a municipality, the sheriff of

1 the county in which the school is located if the principal has
2 reasonable grounds to believe that any of the following activities
3 occur in school, on school property, or at a school-sponsored or
4 school-related activity on or off school property, whether or not
5 the activity is investigated by school security officers:

6 (1) conduct that may constitute an offense listed
7 under Section 508.149, Government Code;

8 (2) deadly conduct under Section 22.05, Penal Code;

9 (3) a terroristic threat under Section 22.07, Penal
10 Code;

11 (4) the use, sale, or possession of a controlled
12 substance, drug paraphernalia, or marihuana under Chapter 481,
13 Health and Safety Code;

14 (5) the possession of any of the weapons or devices
15 listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal
16 Code; ~~or~~

17 (6) conduct that may constitute a criminal offense
18 under Section 71.02, Penal Code; or

19 (7) conduct that may constitute a criminal offense for
20 which a student may be expelled under Section 37.007(a), (d), or
21 (e).

22 SECTION 20. Sections 37.019(a) and (c), Education Code, are
23 amended to read as follows:

24 (a) This subchapter does not prevent the principal or the
25 principal's designee from ordering the immediate placement of a
26 student in a disciplinary ~~[the]~~ alternative education program if
27 the principal or the principal's designee reasonably believes the

1 student's behavior is so unruly, disruptive, or abusive that it
2 seriously interferes with a teacher's ability to communicate
3 effectively with the students in a class, with the ability of the
4 student's classmates to learn, or with the operation of school or a
5 school-sponsored activity.

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

21 SECTION 21. Section 37.020, Education Code, is amended to
22 read as follows:

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

1 (b) For~~+~~

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

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

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

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

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

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

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

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

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

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

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

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

9 (A) [~~(i)~~] conduct for which expulsion is
10 required under Section 37.007, including information specifically
11 indicating whether a student was expelled on the basis of Section
12 37.007(e); or

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

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

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

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

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

24 (B) [~~(ii)~~] the student was placed in a
25 disciplinary [~~an~~] alternative education program; or

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

1 program; and

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

5 SECTION 22. Subchapter A, Chapter 37, is amended by adding
6 Section 37.021 to read as follows:

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

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

18 SECTION 23. Section 37.121(b), Education Code, is amended
19 to read as follows:

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

24 SECTION 24. Section 39.053(e), Education Code, is amended
25 to read as follows:

26 (e) The report may include the following information:

27 (1) student information, including total enrollment,

1 enrollment by ethnicity, socioeconomic status, and grade groupings
2 and retention rates;

3 (2) financial information, including revenues and
4 expenditures;

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

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

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

13 SECTION 25. Article 15.27(b), Code of Criminal Procedure,
14 is amended to read as follows:

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

1 prosecuting attorney shall mail written notice, which must contain
2 a statement of the offense of which the individual is convicted or
3 on which the adjudication, deferred adjudication, or deferred
4 prosecution is grounded.

5 SECTION 26. Article 15.27(e)(2), Code of Criminal
6 Procedure, is amended to read as follows:

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

14 SECTION 27. Article 15.27(g), Code of Criminal Procedure,
15 is amended to read as follows:

16 (g) The office of the prosecuting attorney or the office or
17 official designated by the juvenile board shall, within two working
18 days, notify the school district that removed a student to a
19 disciplinary [~~an~~] alternative education program under Section
20 37.006, Education Code, if:

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

25 (2) the court or jury found the student not guilty or
26 made a finding the child did not engage in delinquent conduct or
27 conduct indicating a need for supervision and the case was

1 dismissed with prejudice.

2 SECTION 28. Section 164.006, Health and Safety Code, is
3 amended to read as follows:

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

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

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

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

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

1 the treatment facility offering the services; or

2 (C) entering into a contract under Section
3 464.020 with the board of trustees of a school district with a
4 disciplinary [~~an~~] alternative education program [~~under Section~~
5 ~~464.020~~], or with the board's designee, for the provision of
6 chemical dependency treatment services;

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

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

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

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

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

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

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

26 (4) in relation to intervention and assessment
27 services, contract with, offer to remunerate, or remunerate a

1 person who operates an intervention and assessment service that
2 makes referrals to a treatment facility for inpatient treatment of
3 mental illness or chemical dependency unless the intervention and
4 assessment service is:

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

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

10 (C) a qualified mental health referral service as
11 defined by Section 164.007; or

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

15 SECTION 29. Section 464.020, Health and Safety Code, is
16 amended to read as follows:

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

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

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

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

12 SECTION 30. Section 37.001(b), Education Code, is repealed.

13 SECTION 31. (a) This Act applies beginning with the
14 2003-2004 school year, except that Section 37.008(a)(8), Education
15 Code, as added by this Act, applies beginning with the 2004-2005
16 school year.

17 (b) Except as provided by Subsection (c) of this section,
18 the changes in law made by this Act relating to conduct for which a
19 student may be removed to a disciplinary alternative education
20 program or expelled apply to conduct that occurs on or after the
21 effective date of this Act.

22 (c) Section 37.0081, Education Code, as added by this Act,
23 applies to any student who attends school on or after the effective
24 date of this Act and who engaged in conduct described by that
25 section, regardless of the date on which the conduct occurred.

26 SECTION 32. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 1314 was passed by the House on May 10, 2003, by the following vote: Yeas 136, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1314 on May 30, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1314 on June 1, 2003, by the following vote: Yeas 136, Nays 6, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1314

I certify that H.B. No. 1314 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1314 on June 1, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor