

By: West

S.B. No. 1181

A BILL TO BE ENTITLED

AN ACT

relating to student discipline in public schools.

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) An open-enrollment charter school may not remove a student to a disciplinary alternative education program or expel a student unless the school complies with the provisions of Subchapter A, Chapter 37, relating to a removal to a disciplinary alternative education program or to expulsion, as applicable.

(b) An open-enrollment charter school that elects to expel students may not expel a student for a reason that is not authorized by Section 37.007. An open-enrollment charter school that elects to remove students to a disciplinary alternative education program must comply with requirements for the program under Section 37.008. This section does not require a charter school to employ a certified teacher in a disciplinary alternative education program.

(c) An open-enrollment charter school that enrolls a student who was removed to a disciplinary alternative education program or expelled by another open-enrollment charter school or by a school district:

(1) may take any action permitted under Section

1 37.008(j), if the school has a disciplinary alternative education
2 program that complies with Subchapter A, Chapter 37; or

3 (2) may take any action permitted under Section
4 37.010(g), if the school has an expulsion policy that complies with
5 Subchapter A, Chapter 37.

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

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

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

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

24 (B) expulsion;

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

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

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

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

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

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

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

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

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

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

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

1 code of conduct must:

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

5 (2) specify conditions that authorize or require a
6 principal or other appropriate administrator to transfer a student
7 to a disciplinary ~~an~~ alternative education program; ~~and~~

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

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

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

16 (A) a removal under Section 37.006; and

17 (B) an expulsion under Section 37.007; and

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

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

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

27 (c) If a teacher removes a student from class under

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

10 (d) A teacher shall remove from class and send to the
11 principal for placement in a disciplinary [~~an~~] alternative
12 education program or for expulsion, as appropriate, a student who
13 engages in conduct described under Section 37.006 or 37.007. The
14 student may not be returned to that teacher's class without the
15 teacher's consent unless the committee established under Section
16 37.003 determines that such placement is the best or only
17 alternative available.

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

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

25 (1) engages in conduct involving a public school that
26 contains the elements of the offense of false alarm or report under
27 Section 42.06, Penal Code, or terroristic threat under Section

1 22.07, Penal Code; or

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

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

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

9 (C) sells, gives, or delivers to another person
10 or possesses or uses or is under the influence of:

11 (i) marihuana or a controlled substance, as
12 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
13 Section 801 et seq.; or

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

16 (D) sells, gives, or delivers to another person
17 an alcoholic beverage, as defined by Section 1.04, Alcoholic
18 Beverage Code, commits a serious act or offense while under the
19 influence of alcohol, or possesses, uses, or is under the influence
20 of an alcoholic beverage;

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

26 (F) engages in conduct that contains the elements
27 of the offense of public lewdness under Section 21.07, Penal Code,

1 or indecent exposure under Section 21.08, Penal Code.

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

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

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

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

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

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

26 (1) the superintendent or the superintendent's
27 designee has a reasonable belief that the student has engaged in

1 conduct defined as a felony offense other than those defined in
2 Title 5, Penal Code; and

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

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

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

1 students or teachers.

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

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

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

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

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

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

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

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

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

12 Sec. 37.008. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS.

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

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

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

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

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

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

25 (6) provides supervision and counseling;

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

1 (8) requires that to teach in an off-campus
2 disciplinary alternative education program, each teacher meet all
3 certification requirements established under Subchapter B, Chapter
4 21; and

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

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

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

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

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

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

27 (f) A student removed to a disciplinary [~~an~~] alternative

1 education program is counted in computing the average daily
2 attendance of students in the district for the student's time in
3 actual attendance in the program.

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

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

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

21 (j) If a student placed in a disciplinary [~~an~~] alternative
22 education program enrolls in another school district before the
23 expiration of the period of placement, the board of trustees of the
24 district requiring the placement shall provide to the district in
25 which the student enrolls, at the same time other records of the
26 student are provided, a copy of the placement order. The district
27 in which the student enrolls may continue the disciplinary

1 alternative education program placement under the terms of the
2 order or may allow the student to attend regular classes without
3 completing the period of placement. A district may take any action
4 permitted by this subsection if:

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

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

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

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

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

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

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

1 (k) A program of educational and support services may be
2 provided to a student and the student's parents when the offense
3 involves drugs or alcohol as specified under Section 37.006 or
4 37.007. A disciplinary [~~An~~] alternative education program that
5 provides chemical dependency treatment services must be licensed
6 under Chapter 464, Health and Safety Code.

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

20 (m) The commissioner shall adopt rules necessary to
21 evaluate annually the performance of each district's disciplinary
22 alternative education program established under this subchapter.
23 The evaluation required by this section shall be based on
24 indicators defined by the commissioner, but must include student
25 performance on assessment instruments required under Sections
26 39.023(a) and (c). Academically, the mission of disciplinary
27 alternative education programs shall be to enable students to

1 perform at grade level.

2 (m-1) The commissioner shall develop a process for
3 evaluating a school district disciplinary alternative education
4 program electronically. The commissioner shall also develop a
5 system and standards for review of the evaluation or use systems
6 already available at the agency. The system must be designed to
7 identify districts that are at high risk of having inaccurate
8 disciplinary alternative education program data or of failing to
9 comply with disciplinary alternative education program
10 requirements. The commissioner shall notify the board of trustees
11 of a district of any objection the commissioner has to the
12 district's disciplinary alternative education program data or of a
13 violation of a law or rule revealed by the data, including any
14 violation of disciplinary alternative education program
15 requirements, or of any recommendation by the commissioner
16 concerning the data. If the data reflect that a penal law has been
17 violated, the commissioner shall notify the county attorney,
18 district attorney, or criminal district attorney, as appropriate,
19 and the attorney general. The commissioner is entitled to access to
20 all district records the commissioner considers necessary or
21 appropriate for the review, analysis, or approval of disciplinary
22 alternative education program data.

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

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

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

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

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

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

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

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

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

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

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

23 (d) The board or the board's designee shall set a term for a
24 student's placement in a disciplinary [~~an~~] alternative education
25 program. If the period of the placement is inconsistent with the
26 guidelines included in the student code of conduct under Section
27 37.001(a)(5), the order must give notice of the inconsistency. The

1 period of the placement may not exceed one year unless, after a
2 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 [~~under Section 37.002 or 37.006~~].

7 (e) A student placed in a disciplinary [~~an~~] alternative
8 education program [~~under Section 37.002 or 37.006~~] shall be
9 provided a review of the student's status, including a review of the
10 student's academic status, by the board's designee at intervals not
11 to exceed 60 [~~120~~] days. In the case of a high school student, the
12 board's designee, with the student's parent or guardian, shall
13 review the student's progress towards meeting high school
14 graduation requirements and shall establish a specific graduation
15 plan for the student. The district is not required under this
16 subsection to provide a course in the district's disciplinary
17 alternative education program except as required by Section
18 37.008(1) [~~a course not specified under Section 37.008(a)~~]. At the
19 review, the student or the student's parent or guardian must be
20 given the opportunity to present arguments for the student's return
21 to the regular classroom or campus. The student may not be returned
22 to the classroom of the teacher who removed the student without that
23 teacher's consent. The teacher may not be coerced to consent.

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

1 student under Section 37.007.

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

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

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

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

25 (j) If, during the term of a placement or expulsion ordered
26 under this section, a student engages in additional conduct for
27 which placement in a disciplinary alternative education program or

1 expulsion is required or permitted, additional proceedings may be
2 conducted under this section regarding that conduct and the
3 principal or board, as appropriate, may enter an additional order
4 as a result of those proceedings.

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

8 (a) Not later than the second business day after the date a
9 hearing is held under Section 37.009, the board of trustees of a
10 school district or the board's designee shall deliver a copy of the
11 order placing a student in a disciplinary ~~[an]~~ alternative
12 education program under Section 37.006 or expelling a student under
13 Section 37.007 and any information required under Section 52.04,
14 Family Code, to the authorized officer of the juvenile court in the
15 county in which the student resides. In a county that operates a
16 program under Section 37.011, an expelled student shall to the
17 extent provided by law or by the memorandum of understanding
18 immediately attend the educational program from the date of
19 expulsion, except ~~[, provided, however,]~~ that in a county with a
20 population greater than 125,000, every expelled student who is not
21 detained or receiving treatment under an order of the juvenile
22 court must be enrolled in an educational program.

23 (c) Unless the juvenile board for the county in which the
24 district's central administrative office is located has entered
25 into a memorandum of understanding with the district's board of
26 trustees concerning the juvenile probation department's role in
27 supervising and providing other support services for students in

1 disciplinary alternative education programs, a court may not order
2 a student expelled under Section 37.007 to attend a regular
3 classroom, a regular campus, or a school district disciplinary
4 alternative education program as a condition of probation.

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

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

20 (f) If a student is expelled under Section 37.007, on the
21 recommendation of the committee established under Section 37.003 or
22 on its own initiative, a district may readmit the student while the
23 student is completing any court disposition requirements the court
24 imposes. After the student has successfully completed any court
25 disposition requirements the court imposes, including conditions
26 of a deferred prosecution ordered by the court, or such conditions
27 required by the prosecutor or probation department, if the student

1 meets the requirements for admission into the public schools
2 established by this title, a district may not refuse to admit the
3 student, but the district may place the student in the disciplinary
4 alternative education program. Notwithstanding Section 37.002(d),
5 the student may not be returned to the classroom of the teacher
6 under whose supervision the offense occurred without that teacher's
7 consent. The teacher may not be coerced to consent.

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

20 (1) the student was expelled by an open-enrollment
21 charter school under Section 12.131 and the charter school provides
22 to the district a copy of the expulsion order; or

23 (2) the student was expelled by a school district in
24 another state if:

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

27 (B) the grounds for the expulsion are also

1 grounds for expulsion in the district in which the student is
2 enrolling.

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

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

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

14 SECTION 11. Section 37.011, Education Code, is amended by
15 amending Subsections (a), (b), (h), (k), and (l) and adding
16 Subsection (k-1) to read as follows:

17 (a) The juvenile board of a county with a population greater
18 than 125,000 shall develop a juvenile justice alternative education
19 program, subject to the approval of the Texas Juvenile Probation
20 Commission. The juvenile board of a county with a population of
21 125,000 or less may develop a juvenile justice alternative
22 education program. For the purposes of this subchapter, only a
23 disciplinary alternative education program operated under the
24 authority of a juvenile board of a county is considered a juvenile
25 justice alternative education program. A juvenile justice
26 alternative education program in a county with a population of
27 125,000 or less:

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

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

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

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

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

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

22 (h) Academically, the mission of juvenile justice
23 alternative education programs shall be to enable students to
24 perform at grade level. For purposes of accountability under
25 Chapter 39, a student enrolled in a juvenile justice alternative
26 education program is reported as if the student were enrolled at the
27 student's assigned campus in the student's regularly assigned

1 education program, including a special education program. Annually
2 the Texas Juvenile Probation Commission, with the agreement of the
3 commissioner, shall develop and implement a system of
4 accountability consistent with Chapter 39, where appropriate, to
5 assure that students make progress toward grade level while
6 attending a juvenile justice alternative education program. The
7 Texas Juvenile Probation Commission shall adopt rules for the
8 distribution of funds appropriated under this section to juvenile
9 boards in counties required to establish juvenile justice
10 alternative education programs. Except as determined by the
11 commissioner, a student served by a juvenile justice alternative
12 education program on the basis of an expulsion required under
13 Section 37.007(a), (d), or (e) is not eligible for Foundation
14 School Program funding under Chapter 42 or 31 if the juvenile
15 justice alternative education program receives funding from the
16 Texas Juvenile Probation Commission under this subchapter.

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

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

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

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

6 (4) identifies and requires a timely placement and
7 specifies a term of placement for expelled students for whom the
8 school district has received a notice under Section 52.041(d),
9 Family Code;

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

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

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

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

23 (k-1) Unless otherwise agreed to in writing, an
24 open-enrollment charter school that elects to expel students under
25 Section 12.131 is subject to a memorandum of understanding entered
26 into under Subsection (k) between the school district in which the
27 open-enrollment charter school campus is located and the county

1 juvenile board.

2 (1) The school district or open-enrollment charter school,
3 as applicable, shall be responsible for providing an immediate
4 educational program to students who engage in behavior resulting in
5 expulsion under Section 37.007(b), (c), and (f) but who are not
6 eligible for admission into the juvenile justice alternative
7 education program in accordance with the memorandum of
8 understanding required under this section. The school district may
9 provide the program or the school district may contract with a
10 county juvenile board, a private provider, or one or more other
11 school districts to provide the program. The memorandum of
12 understanding shall address the circumstances under which such
13 students who continue to engage in serious or persistent
14 misbehavior shall be admitted into the juvenile justice alternative
15 education program.

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

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

1 under Section 37.011(k)(2).

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

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

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

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

22 (a) This subchapter does not prevent the principal or the
23 principal's designee from ordering the immediate placement of a
24 student in a disciplinary ~~[the]~~ alternative education program if
25 the principal or the principal's designee reasonably believes the
26 student's behavior is so unruly, disruptive, or abusive that it
27 seriously interferes with a teacher's ability to communicate

1 effectively with the students in a class, with the ability of the
2 student's classmates to learn, or with the operation of school or a
3 school-sponsored activity.

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

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

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

26 (b) For [+

27 [~~(1) for~~] each placement in a disciplinary [~~an~~]

1 alternative education program established under Section 37.008,
2 the 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 placement was based on:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (5) the number of expulsions that were inconsistent

1 with the guidelines included in the student code of conduct under
2 Section 37.001(a)(5).

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

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

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

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

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

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

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

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

1 (2) financial information, including revenues and
2 expenditures;

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

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

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

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

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

1 on which the adjudication, deferred adjudication, or deferred
2 prosecution is grounded.

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

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

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

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

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

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

27 SECTION 22. Section 164.006, Health and Safety Code, is

1 amended to read as follows:

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

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

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

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

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

27 (C) entering into a contract under Section

1 464.020 with the board of trustees of a school district with a
2 disciplinary [~~an~~] alternative education program [~~under Section~~
3 ~~464.020~~], or with the board's designee, for the provision of
4 chemical dependency treatment services;

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

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

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

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

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

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

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

24 (4) in relation to intervention and assessment
25 services, contract with, offer to remunerate, or remunerate a
26 person who operates an intervention and assessment service that
27 makes referrals to a treatment facility for inpatient treatment of

1 mental illness or chemical dependency unless the intervention and
2 assessment service is:

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

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

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

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

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

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

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

26 (c) The commission may not issue a license that authorizes a
27 disciplinary ~~[an]~~ alternative education program to provide

1 detoxification or residential services.

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

10 SECTION 24. (a) This Act applies beginning with the
11 2003-2004 school year, except that Subdivision (8), Subsection (a),
12 Section 37.008, Education Code, as added by this Act, applies
13 beginning with the 2004-2005 school year.

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

18 (c) Subsection (n), Section 37.008, Education Code, as
19 added by this Act, applies only to a contract a school district
20 enters into on or after the effective date of this Act.

21 SECTION 25. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2003.

