

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.

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

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

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

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

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

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

22 (B) expulsion;

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

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

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

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

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

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

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

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

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

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

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

27 (1) specify the circumstances, in accordance with this

1 subchapter, under which a student may be removed from a classroom,
2 campus, or disciplinary alternative education program;

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

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

9 (4) specify whether consideration is given to a
10 defense that may be used as a defense to prosecution, including
11 self-defense, as a factor in a decision to order suspension,
12 removal to a disciplinary alternative education program, or
13 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.

21 (d) Each school year, a school district shall hold a public
22 hearing to provide parents and other members of the public notice of
23 and information regarding the student code of conduct.

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

26 (c) If a teacher removes a student from class under
27 Subsection (b), the principal may place the student into another

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

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

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

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

24 (1) engages in conduct involving a public school that
25 contains the elements of the offense of false alarm or report under
26 Section 42.06, Penal Code, or terroristic threat under Section
27 22.07, Penal Code; or

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (f) Subject to Section 37.007(e), a student who is younger
19 than 10 years of age shall be removed from class and placed in a
20 disciplinary [~~an~~] alternative education program under Section
21 37.008 if the student engages in conduct described by Section
22 37.007. An elementary school student may not be placed in a
23 disciplinary [~~an~~] alternative education program with any other
24 student who is not an elementary school student.

25 (h) On receipt of notice under Article 15.27(g), Code of
26 Criminal Procedure, the superintendent or the superintendent's
27 designee shall review the student's placement in the disciplinary

1 alternative education program. The student may not be returned to
2 the regular classroom pending the review. The superintendent or
3 the superintendent's designee shall schedule a review of the
4 student's placement with the student's parent or guardian not later
5 than the third class day after the superintendent or
6 superintendent's designee receives notice from the office or
7 official designated by the court. After reviewing the notice and
8 receiving information from the student's parent or guardian, the
9 superintendent or the superintendent's designee may continue the
10 student's placement in the disciplinary alternative education
11 program if there is reason to believe that the presence of the
12 student in the regular classroom threatens the safety of other
13 students or teachers.

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

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

22 (n) A principal or other appropriate administrator is not
23 required to remove a student to a disciplinary alternative
24 education program for off-campus conduct for which removal is
25 required under this section unless the principal or other
26 appropriate administrator has knowledge of the conduct before the
27 first anniversary of the date the conduct occurred.

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

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

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

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

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

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

24 Sec. 37.008. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS.

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

27 (1) is provided in a setting other than a student's

1 regular classroom;

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

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

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

8 (5) provides for students' educational and behavioral
9 needs; ~~and~~

10 (6) provides supervision and counseling;

11 (7) as provided by Subsection (1), provides each
12 student an opportunity to complete for credit the courses in which
13 the student was enrolled at the time of the student's removal;

14 (8) operates for the number of days and the number of
15 hours per day required by Sections 25.081 and 25.082; and

16 (9) requires that each teacher for a subject area
17 included under Subdivision (4) hold an appropriate certificate or
18 permit to teach in that subject area.

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

21 (1) a different campus;

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

23 (3) a community-based alternative school.

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

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

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

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

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

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

24 (i) On request of a school district, a regional education
25 service center may provide to the district information on
26 developing a disciplinary [~~an~~] alternative education program that
27 takes into consideration the district's size, wealth, and existing

1 facilities in determining the program best suited to the district.

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

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

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

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

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

25 (j-1) If a student was placed in a disciplinary alternative
26 education program by a school district in another state for a period
27 that exceeds one year and a school district in this state in which

1 the student enrolls continues the placement under Subsection (j),
2 the district shall reduce the period of the placement so that the
3 aggregate period does not exceed one year.

4 (k) A program of educational and support services may be
5 provided to a student and the student's parents when the offense
6 involves drugs or alcohol as specified under Section 37.006 or
7 37.007. A disciplinary [An] alternative education program that
8 provides chemical dependency treatment services must be licensed
9 under Chapter 464, Health and Safety Code.

10 (l) A school district is [~~not~~] required to provide in the
11 district's disciplinary alternative education program a course
12 necessary to fulfill a student's high school graduation
13 requirements only as provided by this subsection. A school
14 district shall offer a student removed to a disciplinary
15 alternative education program an opportunity to complete, before
16 the beginning of the next school year, each course in which the
17 student was enrolled at the time of the removal. A disciplinary
18 alternative education program must provide a student instruction in
19 any course in which the student was enrolled at the time of the
20 removal that is within a subject area included under Subsection
21 (a)(4). For any other course in which the student was enrolled, the
22 school district may provide the student an opportunity to complete
23 the course through any method available, including a correspondence
24 course, distance learning, or summer school. The district may not
25 charge the student for a course provided under this subsection
26 [other than a course specified by Subsection (a)].

27 (m) The commissioner shall adopt rules necessary to

1 evaluate annually the performance of each district's disciplinary
2 alternative education program established under this subchapter.
3 The evaluation required by this section shall be based on
4 indicators defined by the commissioner, but must include student
5 performance on assessment instruments required under Sections
6 39.023(a) and (c). Academically, the mission of disciplinary
7 alternative education programs shall be to enable students to
8 perform at grade level. Reviews, including on-site visits under
9 Section 39.074, conducted by the agency to monitor education
10 program compliance must include, to the extent determined by the
11 commissioner, review of compliance with disciplinary alternative
12 education program requirements.

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

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

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

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

23 (a) Not later than the third class day after the day on which
24 a student is removed from class by the teacher under Section
25 37.002(b) or (d) or by the school principal or other appropriate
26 administrator under Section 37.001(a)(2) or 37.006, the principal
27 or other appropriate administrator shall schedule a conference

1 among the principal or other appropriate administrator, a parent or
2 guardian of the student, the teacher removing the student from
3 class, if any, and the student. At the conference, the student is
4 entitled to written or oral notice of the reasons for the removal,
5 an explanation of the basis for the removal, and an opportunity to
6 respond to the reasons for the removal. The student may not be
7 returned to the regular classroom pending the conference.
8 Following the conference, and whether or not each requested person
9 is in attendance after valid attempts to require the person's
10 attendance, the principal shall order the placement of the student
11 ~~[as provided by Section 37.002 or 37.006, as applicable,]~~ for a
12 period consistent with the student code of conduct. If the period
13 of the placement is inconsistent with the guidelines included in
14 the student code of conduct under Section 37.001(a)(5), the order
15 must give notice of the inconsistency. The period of the placement
16 may not exceed one year.

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

26 (c) Before it may place a student in a disciplinary ~~[an]~~
27 alternative education program for a period that extends beyond the

1 end of the school year, the board or the board's designee must
2 determine that:

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

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

8 (d) The board or the board's designee shall set a term for a
9 student's placement in a disciplinary [~~an~~] alternative education
10 program. If the period of the placement is inconsistent with the
11 guidelines included in the student code of conduct under Section
12 37.001(a)(5), the order must give notice of the inconsistency. The
13 period of the placement may not exceed one year [~~under Section~~
14 ~~37.002 or 37.006~~].

15 (e) A student placed in a disciplinary [~~an~~] alternative
16 education program [~~under Section 37.002 or 37.006~~] shall be
17 provided a review of the student's status, including a review of the
18 student's academic status, by the board's designee at intervals not
19 to exceed 60 [~~120~~] days. In the case of a high school student, the
20 board's designee, with the student's parent or guardian, shall
21 review the student's progress towards meeting high school
22 graduation requirements and shall establish a specific graduation
23 plan for the student. The district is not required under this
24 subsection to provide a course in the district's disciplinary
25 alternative education program except as required by Section
26 37.008(1) [~~a course not specified under Section 37.008(a)~~]. At the
27 review, the student or the student's parent or guardian must be

1 given the opportunity to present arguments for the student's return
2 to the regular classroom or campus. The student may not be returned
3 to the classroom of the teacher who removed the student without that
4 teacher's consent. The teacher may not be coerced to consent.

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

10 (h) If the period of an expulsion is inconsistent with the
11 guidelines included in the student code of conduct under Section
12 37.001(a)(5), the order must give notice of the inconsistency. The
13 period of an expulsion may not exceed one year. After a school
14 district notifies the parents or guardians of a student that the
15 student has been expelled, the parent or guardian shall provide
16 adequate supervision of the student during the period of expulsion.

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

1 (j) If, during the term of a placement or expulsion ordered
2 under this section, a student engages in additional conduct for
3 which placement in a disciplinary alternative education program or
4 expulsion is required or permitted, additional proceedings may be
5 conducted under this section regarding that conduct and the
6 principal or board, as appropriate, may enter an additional order
7 as a result of those proceedings. The term of the additional
8 placement or expulsion shall run concurrently with the placement or
9 expulsion in effect at the time the student engaged in the conduct
10 for which the additional placement or expulsion is ordered.

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

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

1 court must be enrolled in an educational program.

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

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

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

26 (f) If a student is expelled under Section 37.007, on the
27 recommendation of the committee established under Section 37.003 or

1 on its own initiative, a district may readmit the student while the
2 student is completing any court disposition requirements the court
3 imposes. After the student has successfully completed any court
4 disposition requirements the court imposes, including conditions
5 of a deferred prosecution ordered by the court, or such conditions
6 required by the prosecutor or probation department, if the student
7 meets the requirements for admission into the public schools
8 established by this title, a district may not refuse to admit the
9 student, but the district may place the student in the disciplinary
10 alternative education program. Notwithstanding Section 37.002(d),
11 the student may not be returned to the classroom of the teacher
12 under whose supervision the offense occurred without that teacher's
13 consent. The teacher may not be coerced to consent.

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

26 (1) the student was expelled by an open-enrollment
27 charter school under Section 12.131 and the charter school provides

1 to the district a copy of the expulsion order; or

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

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

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

9 (g-1) If a student was expelled by a school district in
10 another state for a period that exceeds one year and a school
11 district in this state continues the expulsion or places the
12 student in a disciplinary alternative education program under
13 Subsection (g), the district shall reduce the period of the
14 expulsion or placement so that the aggregate period does not exceed
15 one year.

16 SECTION 11. Sections 37.011(a), (b), (h), (k), (l), and
17 (p), Education Code, are amended to read as follows:

18 (a) The juvenile board of a county with a population greater
19 than 125,000 shall develop a juvenile justice alternative education
20 program, subject to the approval of the Texas Juvenile Probation
21 Commission. The juvenile board of a county with a population of
22 125,000 or less may develop a juvenile justice alternative
23 education program. For the purposes of this subchapter, a
24 disciplinary education program operated by an entity other than the
25 juvenile board of a county is not considered a juvenile justice
26 alternative education program. A juvenile justice alternative
27 education program in a county with a population of 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 (1) The school district shall be responsible for providing
24 an immediate educational program to students who are expelled from
25 the district or an open-enrollment charter school for conduct for
26 which expulsion is required under Section 37.007 [~~engage in~~
27 ~~behavior resulting in expulsion under Section 37.007(b), (c), and~~

1 (~~f~~) but who are not eligible for admission into the juvenile
2 justice alternative education program in accordance with the
3 memorandum of understanding required under this section. A school
4 district is responsible under this subsection for providing an
5 educational program to a student expelled from an open-enrollment
6 charter school only if the student is otherwise eligible for
7 admission to the school district under Section 25.001. The school
8 district may provide the program or the school district may
9 contract with a county juvenile board, a private provider, or one or
10 more other school districts to provide the program. The memorandum
11 of understanding shall address the circumstances under which such
12 students who continue to engage in serious or persistent
13 misbehavior shall be admitted into the juvenile justice alternative
14 education program.

15 (p) If a district elects to contract with the juvenile board
16 for placement in the juvenile justice alternative education program
17 of students expelled under Sections [~~Section~~] 37.007(b) [~~7(c)~~] and
18 (f) and the juvenile board and district are unable to reach an
19 agreement in the memorandum of understanding, either party may
20 request that the issues of dispute be referred to a binding
21 arbitration process that uses a qualified alternative dispute
22 resolution arbitrator in which each party will pay its pro rata
23 share of the arbitration costs. Each party must submit its final
24 proposal to the arbitrator. If the parties cannot agree on an
25 arbitrator, the juvenile board shall select an arbitrator, the
26 school districts shall select an arbitrator, and those two
27 arbitrators shall select an arbitrator who will decide the issues

1 in dispute. An arbitration decision issued under this subsection
2 is enforceable in a court in the county in which the juvenile
3 justice alternative education program is located. Any decision by
4 an arbitrator concerning the amount of the funding for a student who
5 is expelled and attending a juvenile justice alternative education
6 program must provide an amount sufficient based on operation of the
7 juvenile justice alternative education program in accordance with
8 this chapter. In determining the amount to be paid by a school
9 district for an expelled student enrolled in a juvenile justice
10 alternative education program, the arbitrator shall consider the
11 relevant factors, including evidence of:

12 (1) the actual average total per student expenditure
13 in the district's alternative education setting;

14 (2) the expected per student cost in the juvenile
15 justice alternative education program as described and agreed on in
16 the memorandum of understanding and in compliance with this
17 chapter; and

18 (3) the costs necessary to achieve the accountability
19 goals under this chapter.

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

23 (a) Subject to Section 37.011(n), the school district in
24 which a student is enrolled on the date the student is expelled for
25 conduct for which expulsion is permitted but not required under
26 Section 37.007 [~~on a basis other than Section 37.007(a), (d), or~~
27 ~~(e)] shall, if the student is served by the juvenile justice~~

1 alternative education program, provide funding to the juvenile
2 board for the portion of the school year for which the juvenile
3 justice alternative education program provides educational
4 services in an amount determined by the memorandum of understanding
5 under Section 37.011(k)(2).

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

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

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

24 SECTION 14. Sections 37.019(a) and (c), Education Code, are
25 amended to read as follows:

26 (a) This subchapter does not prevent the principal or the
27 principal's designee from ordering the immediate placement of a

1 student in a disciplinary [~~the~~] alternative education program if
2 the principal or the principal's designee reasonably believes the
3 student's behavior is so unruly, disruptive, or abusive that it
4 seriously interferes with a teacher's ability to communicate
5 effectively with the students in a class, with the ability of the
6 student's classmates to learn, or with the operation of school or a
7 school-sponsored activity.

8 (c) At the time of an emergency placement or expulsion, the
9 student shall be given oral notice of the reason for the action.
10 The reason must be a reason for which placement in a disciplinary
11 alternative education program or expulsion may be made on a
12 nonemergency basis. Within a reasonable time after the emergency
13 placement or expulsion, but not later than the 10th day after the
14 date of the placement or expulsion, the student shall be accorded
15 the appropriate due process as required under Section 37.009. If
16 the student subject to the emergency placement or expulsion is a
17 student with disabilities who receives special education services,
18 the [~~term of the student's~~] emergency placement or expulsion is
19 subject to federal law and regulations and must be consistent with
20 the consequences that would apply under this subchapter to a
21 student without a disability [~~the requirements of 20 U.S.C. Section~~
22 ~~1415(j) and (k)] .~~

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

25 Sec. 37.020. REPORTS RELATING TO EXPULSIONS AND
26 DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM PLACEMENTS. (a) In the
27 manner required by the commissioner, each school district shall

1 annually report to the commissioner the information required by
2 this section.

3 (b) For ~~+~~

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

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

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

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

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

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

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

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

27 (4) the number of placements that were inconsistent

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

3 (c) For [~~(2) for~~] each expulsion under Section 37.007, the
4 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 expulsion was based on:

11 (A) [~~(i)~~] conduct for which expulsion is
12 required under Section 37.007, including information specifically
13 indicating whether a student was expelled on the basis of Section
14 37.007(e); or

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

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

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

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

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

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

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

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

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

9 Sec. 37.021. IN-SCHOOL PLACEMENTS AND OTHER REMOVALS FROM
10 REGULAR CLASSROOM. (a) If a school district removes a student from
11 the regular classroom and places the student in in-school
12 suspension or another setting for conduct that is not grounds for
13 removal to a disciplinary alternative education program or
14 expulsion, the district shall provide the student with the
15 opportunity to continue the course work from the student's regular
16 classroom or courses during the term of the placement. The district
17 shall offer the student the opportunity to complete before the
18 beginning of the next school year each course in which the student
19 was enrolled at the time of the removal.

20 (b) The district may provide the opportunity to complete
21 courses by any method available, including a correspondence course,
22 distance learning, or summer school. The district may not charge
23 the student for a course provided under this section.

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

26 (b) A school district board of trustees or an educator shall
27 recommend placing in a disciplinary [~~an~~] alternative education

1 program any student under the person's control who violates
2 Subsection (a).

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

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

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

9 (2) financial information, including revenues and
10 expenditures;

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

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

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

19 SECTION 19. Section 39.073(e), Education Code, is amended
20 to read as follows:

21 (e) In determining a district's accreditation rating, the
22 agency shall consider:

23 (1) the district's current special education
24 compliance status with the agency; ~~[and]~~

25 (2) the progress of students who have failed to
26 perform satisfactorily in the preceding school year on an
27 assessment instrument required under Section 39.023(a), (c), or

1 (1); and

2 (3) to the extent determined by the commissioner, the
3 district's compliance with disciplinary alternative education
4 program requirements under Subchapter A, Chapter 37.

5 SECTION 20. Subsection (b), Article 15.27, Code of
6 Criminal Procedure, is amended to read as follows:

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

24 SECTION 21. Subsection (e)(2), Article 15.27, Code of
25 Criminal Procedure, is amended to read as follows:

26 (2) On conviction, deferred prosecution, or deferred
27 adjudication or an adjudication of delinquent conduct of an

1 individual enrolled as a student in a private primary or secondary
2 school, the office of prosecuting attorney shall make the oral and
3 written notifications described by Subsection (b) of this article
4 to the principal or a school employee designated by the principal of
5 the school in which the student is enrolled.

6 SECTION 22. Subsection (g), Article 15.27, Code of
7 Criminal Procedure, is amended to read as follows:

8 (g) The office of the prosecuting attorney or the office or
9 official designated by the juvenile board shall, within two working
10 days, notify the school district that removed a student to a
11 disciplinary [~~an~~] alternative education program under Section
12 37.006, Education Code, if:

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

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

21 SECTION 23. Section 164.006, Health and Safety Code, is
22 amended to read as follows:

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

27 (1) contact a referral source or potential client for

1 the purpose of soliciting, directly or indirectly, a referral of a
2 patient to the treatment facility without disclosing its soliciting
3 agent's, employee's, or contractor's affiliation with the treatment
4 facility;

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

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

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

21 (C) entering into a contract under Section
22 464.020 with the board of trustees of a school district with a
23 disciplinary [~~an~~] alternative education program [~~under Section~~
24 ~~464.020~~], or with the board's designee, for the provision of
25 chemical dependency treatment services;

26 (3) provide to an entity of state or local government,
27 on a part-time or full-time basis, the mental health or chemical

1 dependency services of any of its employees, agents, or contractors
2 who make or are in a position to make referrals unless:

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

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

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

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

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

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

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

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

27 (B) operated by a county or regional medical

1 society;

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

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

7 SECTION 24. Section 464.020, Health and Safety Code, is
8 amended to read as follows:

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

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

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

23 (d) The board of trustees of a school district with a
24 disciplinary [~~an~~] alternative education program, or the board's
25 designee, may contract with a private treatment facility or a
26 person employed by or under contract with a private treatment
27 facility to provide chemical dependency treatment services. The

1 contract may not permit the services to be provided at a site that
2 offers detoxification or residential services. Section 164.006
3 applies to a contract made under this section.

4 SECTION 25. Sections 37.006(c) and 37.010(b), Education
5 Code, are repealed.

6 SECTION 26. (a) This Act applies beginning with the
7 2003-2004 school year.

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

12 SECTION 27. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2003.