

By: Eissler, Harless

H.B. No. 920

Substitute the following for H.B. No. 920:

By: Eissler

C.S.H.B. No. 920

A BILL TO BE ENTITLED

AN ACT

relating to the placement by public schools of students who are registered sex offenders and the notification requirements concerning certain offenses committed by students.

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

SECTION 1. Chapter 37, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS

Sec. 37.301. DEFINITION. In this subchapter, "board of trustees" includes the board's designee.

Sec. 37.302. APPLICABILITY. This subchapter:

(1) applies to a student who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) does not apply to a student who is no longer required to register as a sex offender under Chapter 62, Code of Criminal Procedure, including a student who receives an exemption from registration under Subchapter H, Chapter 62, Code of Criminal Procedure, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, Code of Criminal Procedure.

Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A, on receiving notice under Article 15.27, Code of Criminal Procedure, or Chapter 62, Code of Criminal Procedure, that a

1 student is required to register as a sex offender under that
2 chapter, a school district shall remove the student from the
3 regular classroom and determine the appropriate placement of the
4 student in the manner provided by this subchapter.

5 Sec. 37.304. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS
6 UNDER COURT SUPERVISION. (a) A school district shall place a
7 student to whom this subchapter applies and who is under any form of
8 court supervision, including probation, community supervision, or
9 parole, in the appropriate alternative education program as
10 provided by Section 37.309 for at least one semester.

11 (b) If a student transfers to another school district during
12 the student's mandatory placement in an alternative education
13 program under Subsection (a), the district to which the student
14 transfers may:

15 (1) require the student to complete an additional
16 semester in the appropriate alternative education program without
17 conducting a review of the student's placement for that semester
18 under Section 37.306; or

19 (2) count any time spent by the student in an
20 alternative education program in the district from which the
21 student transfers toward the mandatory placement requirement under
22 Subsection (a).

23 Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS
24 NOT UNDER COURT SUPERVISION. A school district may place a student
25 to whom this subchapter applies and who is not under any form of
26 court supervision in the appropriate alternative education program
27 as provided by Section 37.309 for one semester or in the regular

1 classroom. The district may not place the student in the regular
2 classroom if the district board of trustees determines that the
3 student's presence in the regular classroom:

4 (1) threatens the safety of other students or
5 teachers;

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

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

9 Sec. 37.306. REVIEW OF PLACEMENT IN ALTERNATIVE EDUCATION
10 PROGRAM. (a) At the end of the first semester of a student's
11 placement in an alternative education program under Section 37.304
12 or 37.305, the school district board of trustees shall convene a
13 committee to review the student's placement in the alternative
14 education program. The committee must be composed of:

15 (1) a classroom teacher from the campus to which the
16 student would be assigned were the student not placed in an
17 alternative education program;

18 (2) the student's parole or probation officer or, in
19 the case of a student who does not have a parole or probation
20 officer, a representative of the local juvenile probation
21 department;

22 (3) an instructor from the alternative education
23 program to which the student is assigned;

24 (4) a school district designee selected by the board
25 of trustees; and

26 (5) a counselor employed by the school district.

27 (b) The committee by majority vote shall determine and

1 recommend to the school district board of trustees whether the
2 student should be returned to the regular classroom or remain in the
3 alternative education program.

4 (c) If the committee recommends that the student be returned
5 to the regular classroom, the board of trustees shall return the
6 student to the regular classroom unless the board determines that
7 the student's presence in the regular classroom:

8 (1) threatens the safety of other students or
9 teachers;

10 (2) will be detrimental to the educational process; or

11 (3) is not in the best interests of the district's
12 students.

13 (d) If the committee recommends that the student remain in
14 the alternative education program, the board of trustees shall
15 continue the student's placement in the alternative education
16 program unless the board determines that the student's presence in
17 the regular classroom:

18 (1) does not threaten the safety of other students or
19 teachers;

20 (2) will not be detrimental to the educational
21 process; and

22 (3) is not contrary to the best interests of the
23 district's students.

24 (e) If, after receiving a recommendation under Subsection
25 (b), the school district board of trustees determines that the
26 student should remain in an alternative education program, the
27 board shall before the beginning of each school year convene the

1 committee described by Subsection (a) to review, in the manner
2 provided by Subsections (b), (c), and (d), the student's placement
3 in an alternative education program.

4 Sec. 37.307. PLACEMENT AND REVIEW OF STUDENT WITH
5 DISABILITY. (a) The placement under this subchapter of a student
6 with a disability who receives special education services must be
7 made in compliance with the Individuals with Disabilities Education
8 Act (20 U.S.C. Section 1400 et seq.).

9 (b) The review under Section 37.306 of the placement of a
10 student with a disability who receives special education services
11 may be made only by a duly constituted admission, review, and
12 dismissal committee. The admission, review, and dismissal
13 committee may request that the board of trustees convene a
14 committee described by Section 37.306(a) to assist the admission,
15 review, and dismissal committee in conducting the review.

16 Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except
17 as provided by Section 37.304(b), a school district shall determine
18 whether to place a student to whom this subchapter applies and who
19 transfers to the district in the appropriate alternative education
20 program as provided by Section 37.309 or in a regular classroom.
21 The school district shall follow the procedures specified under
22 Section 37.306 in making the determination.

23 Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE
24 EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION
25 PROGRAM. (a) Except as provided by Subsection (b), a school
26 district shall place a student who is required by the board of
27 trustees to attend an alternative education program under this

1 subchapter in a disciplinary alternative education program.

2 (b) A school district shall place a student who is required
3 by the board of trustees to attend an alternative education program
4 under this subchapter in a juvenile justice alternative education
5 program if:

6 (1) the memorandum of understanding entered into
7 between the school district and juvenile board under Section
8 37.011(k) provides for the placement of students to whom this
9 subchapter applies in the juvenile justice alternative education
10 program; or

11 (2) a court orders the placement of the student in a
12 juvenile justice alternative education program.

13 Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN
14 JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice
15 alternative education program is entitled to funding for a student
16 who is placed in the program under this subchapter in the same
17 manner as a juvenile justice alternative education program is
18 entitled to funding under Section 37.012 for a student who is
19 expelled and placed in a juvenile justice alternative education
20 program for conduct for which expulsion is permitted but not
21 required under Section 37.007.

22 Sec. 37.311. CONFERENCE. (a) A student or the student's
23 parent or guardian may appeal a decision by a school district board
24 of trustees to place the student in an alternative education
25 program under this subchapter by requesting a conference among the
26 board of trustees, the student's parent or guardian, and the
27 student. The conference is limited to the factual question of

1 whether the student is required to register as a sex offender under
2 Chapter 62, Code of Criminal Procedure.

3 (b) If the school district board of trustees determines at
4 the conclusion of the conference that the student is required to
5 register as a sex offender under Chapter 62, Code of Criminal
6 Procedure, the student is subject to placement in an alternative
7 education program in the manner provided by this subchapter.

8 (c) A decision by the board of trustees under this section
9 is final and may not be appealed.

10 Sec. 37.312. LIABILITY. This subchapter does not:

11 (1) waive any liability or immunity of a governmental
12 entity or its officers or employees; or

13 (2) create any liability for or a cause of action
14 against a governmental entity or its officers or employees.

15 Sec. 37.313. CONFLICTS OF LAW. To the extent of any
16 conflict between a provision of this subchapter and a provision of
17 Subchapter A, this subchapter prevails.

18 SECTION 2. Article 15.27, Code of Criminal Procedure, is
19 amended by amending Subsections (b) and (c) and adding Subsections
20 (a-1) and (j) to read as follows:

21 (a-1) The superintendent or a person designated by the
22 superintendent in the school district may send to a school district
23 employee having direct supervisory responsibility over the student
24 the information contained in the confidential notice under
25 Subsection (a) if the superintendent or the person designated by
26 the superintendent determines that the employee needs the
27 information for educational purposes or for the protection of the

1 person informed or others.

2 (b) On conviction, deferred prosecution, or deferred
3 adjudication or an adjudication of delinquent conduct of an
4 individual enrolled as a student in a public primary or secondary
5 school, for an offense or for any conduct listed in Subsection (h)
6 of this article, the office of the prosecuting attorney acting in
7 the case shall orally notify the superintendent or a person
8 designated by the superintendent in the school district in which
9 the student is enrolled of the conviction or adjudication and
10 whether the student is required to register as a sex offender under
11 Chapter 62. Oral notification must be given within 24 hours of the
12 time of the order or on the next school day. The superintendent
13 shall, within 24 hours of receiving notification from the office of
14 the prosecuting attorney, [~~promptly~~] notify all instructional and
15 support personnel who have regular contact with the student.
16 Within seven days after the date the oral notice is given, the
17 office of the prosecuting attorney shall mail written notice, which
18 must contain a statement of the offense of which the individual is
19 convicted or on which the adjudication, deferred adjudication, or
20 deferred prosecution is grounded and a statement of whether the
21 student is required to register as a sex offender under Chapter 62.

22 (c) A parole, [~~or~~] probation, or community supervision
23 office, including a community supervision and corrections
24 department, a juvenile probation department, the paroles division
25 of the Texas Department of Criminal Justice, and the Texas Youth
26 Commission, having jurisdiction over a student described by
27 Subsection (a), (b), or (e) who transfers from a school or is

1 subsequently removed from a school and later returned to a school or
2 school district other than the one the student was enrolled in when
3 the arrest, referral to a juvenile court, conviction, or
4 adjudication occurred shall within 24 hours of learning of the
5 student's transfer or reenrollment notify the new school officials
6 of the arrest or referral in a manner similar to that provided for
7 by Subsection (a) or (e)(1), or of the conviction or delinquent
8 adjudication in a manner similar to that provided for by Subsection
9 (b) or (e)(2). The new school officials shall, within 24 hours of
10 receiving notification under this subsection, [~~promptly~~] notify
11 all instructional and support personnel who have regular contact
12 with the student.

13 (j) The notification provisions of this section concerning
14 a person who is required to register as a sex offender under Chapter
15 62 do not lessen the requirement of a person to provide any
16 additional notification prescribed by that chapter.

17 SECTION 3. Article 15.27(d), Code of Criminal Procedure, is
18 repealed.

19 SECTION 4. Subchapter I, Chapter 37, Education Code, as
20 added by this Act, applies only to an offense committed on or after
21 the effective date of this Act. An offense committed before the
22 effective date of this Act is governed by the law in effect when the
23 offense was committed, and the former law is continued in effect for
24 that purpose. For purposes of this section, an offense was
25 committed before the effective date of this Act if any element of
26 the offense occurred before that date.

27 SECTION 5. This Act takes effect September 1, 2007.