

AN ACT

relating to the expulsion and placement in alternative settings of public school students who engage in conduct constituting certain felonies and to assessment of public school students placed in disciplinary alternative education programs.

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

SECTION 1. Section 37.0081, Education Code, is amended to read as follows:

Sec. 37.0081. EXPULSION AND PLACEMENT OF CERTAIN STUDENTS IN ~~[DISCIPLINARY]~~ ALTERNATIVE SETTINGS ~~[EDUCATION PROGRAMS]~~. (a) Subject to Subsection (h), but notwithstanding ~~[Notwithstanding]~~ any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the [a] student in an alternative setting as provided by Subsection (a-1) ~~[in a disciplinary alternative education program under Section 37.008]~~ if:

(1) the student:

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

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

1 (C) is charged with engaging in conduct defined
2 as a felony offense in Title 5, Penal Code;

3 (D) has been referred to a juvenile court for
4 allegedly engaging in delinquent conduct under Section 54.03,
5 Family Code, for conduct defined as a felony offense in Title 5,
6 Penal Code;

7 (E) has received probation or deferred
8 adjudication for a felony offense under Title 5, Penal Code;

9 (F) has been convicted of a felony offense under
10 Title 5, Penal Code; or

11 (G) has been arrested for or charged with a
12 felony offense under Title 5, Penal Code; and

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

15 (A) threatens the safety of other students or
16 teachers;

17 (B) will be detrimental to the educational
18 process; or

19 (C) is not in the best interests of the
20 district's students.

21 (a-1) The student must be placed in:

22 (1) a juvenile justice alternative education program,
23 if the school district is located in a county that operates a
24 juvenile justice alternative education program or the school
25 district contracts with the juvenile board of another county for
26 the provision of a juvenile justice alternative education program;

27 or

1 (2) a disciplinary alternative education program.

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

4 (c) The board of trustees or the board's designee may expel
5 the student and order placement in accordance with this section
6 regardless of:

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

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

9 (3) whether the conduct occurred while the student was
10 enrolled in the district; or

11 (4) whether the student has successfully completed any
12 court disposition requirements imposed in connection with the
13 conduct.

14 (d) Notwithstanding Section 37.009(c) or (d) or any other
15 provision of this subchapter, a student expelled and ordered placed
16 in an alternative setting by the board of trustees or the board's
17 designee is subject to that placement until:

18 (1) the student graduates from high school;

19 (2) the charges described by Subsection (a)(1) are
20 dismissed or reduced to a misdemeanor offense; or

21 (3) the student completes the term of the placement or
22 is assigned to another program [~~may order placement in accordance~~
23 ~~with this section for any period considered necessary by the board~~
24 ~~or the board's designee in connection with the determination made~~
25 ~~under Subsection (a)(2)].~~

26 (e) A student placed in an alternative setting [~~a~~
27 ~~disciplinary alternative education program]~~ in accordance with

1 this section is entitled to the periodic review prescribed by
2 Section 37.009(e).

3 (f) Subsection (d) continues to apply to the student if the
4 student transfers to another school district in the state.

5 (g) The board of trustees shall reimburse a juvenile justice
6 alternative education program in which a student is placed under
7 this section for the actual cost incurred each day for the student
8 while the student is enrolled in the program. For purposes of this
9 subsection:

10 (1) the actual cost incurred each day for the student
11 is determined by the juvenile board of the county operating the
12 program; and

13 (2) the juvenile board shall determine the actual cost
14 each day of the program based on the board's annual audit.

15 (h) To the extent of a conflict between this section and
16 Section 37.007, Section 37.007 prevails.

17 SECTION 2. Subchapter A, Chapter 37, Education Code, is
18 amended by adding Section 37.0082 to read as follows:

19 Sec. 37.0082. ASSESSMENT OF ACADEMIC GROWTH OF STUDENTS IN
20 DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS. (a) To assess a
21 student's academic growth during placement in a disciplinary
22 alternative education program, a school district shall administer
23 to a student placed in a program for a period of 90 school days or
24 longer an assessment instrument approved by the commissioner for
25 that purpose. The instrument shall be administered:

26 (1) initially on placement of the student in the
27 program; and

1 (2) subsequently on the date of the student's
2 departure from the program, or as near that date as possible.

3 (b) The assessment instrument required by this section:

4 (1) must be designed to assess at least a student's
5 basic skills in reading and mathematics;

6 (2) may be:

7 (A) comparable to any assessment instrument
8 generally administered to students placed in juvenile justice
9 alternative education programs for a similar purpose; or

10 (B) based on an appropriate alternative
11 assessment instrument developed by the agency to measure student
12 academic growth; and

13 (3) is in addition to the assessment instruments
14 required to be administered under Chapter 39.

15 (c) The commissioner shall adopt rules necessary to
16 implement this section.

17 SECTION 3. Chapter 37, Education Code, is amended by adding
18 Subchapter I to read as follows:

19 SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS

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

22 Sec. 37.302. APPLICABILITY. This subchapter:

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

25 (2) does not apply to a student who is no longer
26 required to register as a sex offender under Chapter 62, Code of
27 Criminal Procedure, including a student who receives an exemption

1 from registration under Subchapter H, Chapter 62, Code of Criminal
2 Procedure, or a student who receives an early termination of the
3 obligation to register under Subchapter I, Chapter 62, Code of
4 Criminal Procedure.

5 Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM
6 REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A,
7 on receiving notice under Article 15.27, Code of Criminal
8 Procedure, or Chapter 62, Code of Criminal Procedure, that a
9 student is required to register as a sex offender under that
10 chapter, a school district shall remove the student from the
11 regular classroom and determine the appropriate placement of the
12 student in the manner provided by this subchapter.

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

19 (b) If a student transfers to another school district during
20 the student's mandatory placement in an alternative education
21 program under Subsection (a), the district to which the student
22 transfers may:

23 (1) require the student to complete an additional
24 semester in the appropriate alternative education program without
25 conducting a review of the student's placement for that semester
26 under Section 37.306; or

27 (2) count any time spent by the student in an

1 alternative education program in the district from which the
2 student transfers toward the mandatory placement requirement under
3 Subsection (a).

4 Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS
5 NOT UNDER COURT SUPERVISION. A school district may place a student
6 to whom this subchapter applies and who is not under any form of
7 court supervision in the appropriate alternative education program
8 as provided by Section 37.309 for one semester or in the regular
9 classroom. The district may not place the student in the regular
10 classroom if the district board of trustees determines that the
11 student's presence in the regular classroom:

12 (1) threatens the safety of other students or
13 teachers;

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

15 (3) is not in the best interests of the district's
16 students.

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

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

26 (2) the student's parole or probation officer or, in
27 the case of a student who does not have a parole or probation

1 officer, a representative of the local juvenile probation
2 department;

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

5 (4) a school district designee selected by the board
6 of trustees; and

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

8 (b) The committee by majority vote shall determine and
9 recommend to the school district board of trustees whether the
10 student should be returned to the regular classroom or remain in the
11 alternative education program.

12 (c) If the committee recommends that the student be returned
13 to the regular classroom, the board of trustees shall return the
14 student to the regular classroom unless the board determines that
15 the student's presence in the regular classroom:

16 (1) threatens the safety of other students or
17 teachers;

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

19 (3) is not in the best interests of the district's
20 students.

21 (d) If the committee recommends that the student remain in
22 the alternative education program, the board of trustees shall
23 continue the student's placement in the alternative education
24 program unless the board determines that the student's presence in
25 the regular classroom:

26 (1) does not threaten the safety of other students or
27 teachers;

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

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

5 (e) If, after receiving a recommendation under Subsection
6 (b), the school district board of trustees determines that the
7 student should remain in an alternative education program, the
8 board shall before the beginning of each school year convene the
9 committee described by Subsection (a) to review, in the manner
10 provided by Subsections (b), (c), and (d), the student's placement
11 in an alternative education program.

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

17 (b) The review under Section 37.306 of the placement of a
18 student with a disability who receives special education services
19 may be made only by a duly constituted admission, review, and
20 dismissal committee. The admission, review, and dismissal
21 committee may request that the board of trustees convene a
22 committee described by Section 37.306(a) to assist the admission,
23 review, and dismissal committee in conducting the review.

24 Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except
25 as provided by Section 37.304(b), a school district shall determine
26 whether to place a student to whom this subchapter applies and who
27 transfers to the district in the appropriate alternative education

1 program as provided by Section 37.309 or in a regular classroom.
2 The school district shall follow the procedures specified under
3 Section 37.306 in making the determination.

4 Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE
5 EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION
6 PROGRAM. (a) Except as provided by Subsection (b), a school
7 district shall place a student who is required by the board of
8 trustees to attend an alternative education program under this
9 subchapter in a disciplinary alternative education program.

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

14 (1) the memorandum of understanding entered into
15 between the school district and juvenile board under Section
16 37.011(k) provides for the placement of students to whom this
17 subchapter applies in the juvenile justice alternative education
18 program; or

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

21 Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN
22 JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice
23 alternative education program is entitled to funding for a student
24 who is placed in the program under this subchapter in the same
25 manner as a juvenile justice alternative education program is
26 entitled to funding under Section 37.012 for a student who is
27 expelled and placed in a juvenile justice alternative education

1 program for conduct for which expulsion is permitted but not
2 required under Section 37.007.

3 Sec. 37.311. CONFERENCE. (a) A student or the student's
4 parent or guardian may appeal a decision by a school district board
5 of trustees to place the student in an alternative education
6 program under this subchapter by requesting a conference among the
7 board of trustees, the student's parent or guardian, and the
8 student. The conference is limited to the factual question of
9 whether the student is required to register as a sex offender under
10 Chapter 62, Code of Criminal Procedure.

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

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

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

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

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

23 Sec. 37.313. CONFLICTS OF LAW. To the extent of any
24 conflict between a provision of this subchapter and a provision of
25 Subchapter A, this subchapter prevails.

26 SECTION 4. Article 15.27, Code of Criminal Procedure, is
27 amended by amending Subsections (b) and (c) and adding Subsections

1 (a-1) and (j) to read as follows:

2 (a-1) The superintendent or a person designated by the
3 superintendent in the school district may send to a school district
4 employee having direct supervisory responsibility over the student
5 the information contained in the confidential notice under
6 Subsection (a) if the superintendent or the person designated by
7 the superintendent determines that the employee needs the
8 information for educational purposes or for the protection of the
9 person informed or others.

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

1 deferred prosecution is grounded and a statement of whether the
2 student is required to register as a sex offender under Chapter 62.

3 (c) A parole, ~~[or]~~ probation, or community supervision
4 office, including a community supervision and corrections
5 department, a juvenile probation department, the paroles division
6 of the Texas Department of Criminal Justice, and the Texas Youth
7 Commission, having jurisdiction over a student described by
8 Subsection (a), (b), or (e) who transfers from a school or is
9 subsequently removed from a school and later returned to a school or
10 school district other than the one the student was enrolled in when
11 the arrest, referral to a juvenile court, conviction, or
12 adjudication occurred shall within 24 hours of learning of the
13 student's transfer or reenrollment notify the new school officials
14 of the arrest or referral in a manner similar to that provided for
15 by Subsection (a) or (e)(1), or of the conviction or delinquent
16 adjudication in a manner similar to that provided for by Subsection
17 (b) or (e)(2). The new school officials shall, within 24 hours of
18 receiving notification under this subsection, ~~[promptly]~~ notify
19 all instructional and support personnel who have regular contact
20 with the student.

21 (j) The notification provisions of this section concerning
22 a person who is required to register as a sex offender under Chapter
23 62 do not lessen the requirement of a person to provide any
24 additional notification prescribed by that chapter.

25 SECTION 5. Subsection (d), Article 15.27, Code of Criminal
26 Procedure, is repealed.

27 SECTION 6. Subchapter I, Chapter 37, Education Code, as

1 added by this Act, applies only to an offense committed on or after
2 September 1, 2007. An offense committed before September 1, 2007,
3 is governed by the law in effect when the offense was committed, and
4 the former law is continued in effect for that purpose. For
5 purposes of this section, an offense was committed before September
6 1, 2007, if any element of the offense occurred before that date.

7 SECTION 7. (a) The Texas Education Agency shall explore
8 alternative methods of evaluating the effectiveness of
9 disciplinary alternative education programs. The alternative
10 methods to be explored must include a method that includes, in
11 addition to the indicator required under current law that is based
12 on student performance on assessment instruments required under
13 Sections 39.023(a) and (c), Education Code, indicators relating to
14 student academic growth, course completion, and behavior
15 improvement.

16 (b) Not later than November 1, 2008, the Texas Education
17 Agency shall submit a report of its conclusions and recommendations
18 resulting from the action required by Subsection (a) of this
19 section to the presiding officers of the standing committees of the
20 senate and house of representatives with primary jurisdiction over
21 the public school system or the commitment and rehabilitation of
22 youths.

23 SECTION 8. (a) Section 37.0081, Education Code, as amended
24 by this Act, applies beginning with the 2007-2008 school year.

25 (b) Section 37.0081, Education Code, as amended by this Act,
26 applies to any student who attends school on or after the effective
27 date of this Act and who engaged in conduct described by that

1 section, regardless of the date on which the conduct occurred.

2 SECTION 9. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 2532 was passed by the House on May 11, 2007, by the following vote: Yeas 141, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2532 on May 25, 2007, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2532 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor