

AN ACT

relating to the apprehension, prosecution, and punishment of individuals committing or attempting to commit certain sex offenses, to the placement by public schools of certain students who are sex offenders, and to the notification requirements concerning certain offenses committed by students.

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

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

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

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person

1 designated by the superintendent in the school district in which  
2 the student is enrolled of the conviction or adjudication and  
3 whether the student is required to register as a sex offender under  
4 Chapter 62. Oral notification must be given within 24 hours of the  
5 time of the order or on the next school day. The superintendent  
6 shall, within 24 hours of receiving notification from the office of  
7 the prosecuting attorney, [promptly] notify all instructional and  
8 support personnel who have regular contact with the student.  
9 Within seven days after the date the oral notice is given, the  
10 office of the prosecuting attorney shall mail written notice, which  
11 must contain a statement of the offense of which the individual is  
12 convicted or on which the adjudication, deferred adjudication, or  
13 deferred prosecution is grounded and a statement of whether the  
14 student is required to register as a sex offender under Chapter 62.

15 (c) A parole, ~~or~~ probation, or community supervision  
16 office, including a community supervision and corrections  
17 department, a juvenile probation department, the pardons and  
18 paroles division of the Texas Department of Criminal Justice, and  
19 the Texas Youth Commission, having jurisdiction over a student  
20 described by Subsection (a), (b), or (e) who transfers from a school  
21 or is subsequently removed from a school and later returned to a  
22 school or school district other than the one the student was  
23 enrolled in when the arrest, referral to a juvenile court,  
24 conviction, or adjudication occurred shall within 24 hours of  
25 learning of the student's transfer or reenrollment notify the new  
26 school officials of the arrest or referral in a manner similar to  
27 that provided for by Subsection (a) or (e)(1), or of the conviction

1 or delinquent adjudication in a manner similar to that provided for  
2 by Subsection (b) or (e)(2). The new school officials shall, within  
3 24 hours of receiving notification under this subsection,  
4 ~~[promptly]~~ notify all instructional and support personnel who have  
5 regular contact with the student.

6 (j) The notification provisions of this section concerning  
7 a person who is required to register as a sex offender under Chapter  
8 62 do not lessen the requirement of a person to provide any  
9 additional notification prescribed by that chapter.

10 SECTION 2. Title 1, Code of Criminal Procedure, is amended  
11 by adding Chapter 24A to read as follows:

12 CHAPTER 24A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER COURT  
13 ORDERS; PRESERVING CERTAIN INFORMATION

14 SUBCHAPTER A. RESPONDING TO SUBPOENAS AND CERTAIN OTHER COURT  
15 ORDERS

16 Art. 24A.001. APPLICABILITY OF SUBCHAPTER. This subchapter  
17 applies only to a subpoena, search warrant, or other court order  
18 that:

19 (1) relates to the investigation or prosecution of a  
20 criminal offense under Section 33.021, Penal Code; and

21 (2) is served on or issued with respect to an Internet  
22 service provider that provides service in this state.

23 Art. 24A.002. RESPONSE REQUIRED; DEADLINE FOR RESPONSE.

24 (a) Except as provided by Subsection (b), not later than the 10th  
25 day after the date on which an Internet service provider is served  
26 with or otherwise receives a subpoena, search warrant, or other  
27 court order described by Article 24A.001, the Internet service

1 provider shall:

2 (1) fully comply with the subpoena, warrant, or order;  
3 or

4 (2) petition a court to excuse the Internet service  
5 provider from complying with the subpoena, warrant, or order.

6 (b) As soon as is practicable, and in no event later than the  
7 second business day after the date the Internet service provider is  
8 served with or otherwise receives a subpoena, search warrant, or  
9 other court order described by Article 24A.001, the Internet  
10 service provider shall fully comply with the subpoena, search  
11 warrant, or order if the subpoena, search warrant, or order  
12 indicates that full compliance is necessary to address a situation  
13 that threatens a person with death or other serious bodily injury.

14 (c) For the purposes of Subsection (a)(1), full compliance  
15 with the subpoena, warrant, or order includes:

16 (1) producing or providing, to the extent permitted  
17 under federal law, all documents or information requested under the  
18 subpoena, warrant, or order; or

19 (2) providing, to the extent permitted under federal  
20 law, electronic access to all documents or information requested  
21 under the subpoena, warrant, or order.

22 Art. 24A.003. DISOBEYING SUBPOENA, WARRANT, OR ORDER. An  
23 Internet service provider that disobeys a subpoena, search warrant,  
24 or other court order described by Article 24A.001 and that was not  
25 excused from complying with the subpoena, warrant, or order under  
26 Article 24A.002(a)(2) may be punished in any manner provided by  
27 law.

[Articles 24A.004-24A.050 reserved for expansion]

SUBCHAPTER B. PRESERVING CERTAIN INFORMATION

Art. 24A.051. PRESERVING INFORMATION. (a) On written request of a law enforcement agency in this state or a federal law enforcement agency and pending the issuance of a subpoena or other court order described by Article 24A.001, an Internet service provider that provides service in this state shall take all steps necessary to preserve all records or other potential evidence in a criminal trial that is in the possession of the Internet service provider.

(b) Subject to Subsection (c), an Internet service provider shall preserve information under Subsection (a) for a period of 90 days after the date the Internet service provider receives the written request described by Subsection (a).

(c) An Internet service provider shall preserve information under Subsection (a) for the 90-day period immediately following the 90-day period described by Subsection (b) if the requesting law enforcement agency in writing requests an extension of the preservation period.

SECTION 3. 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

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

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

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

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

26           (1) require the student to complete an additional  
27 semester in the appropriate alternative education program without

1 conducting a review of the student's placement for that semester  
2 under Section 37.306; or

3 (2) count any time spent by the student in an  
4 alternative education program in the district from which the  
5 student transfers toward the mandatory placement requirement under  
6 Subsection (a).

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

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

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

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

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

26 (1) a classroom teacher from the campus to which the  
27 student would be assigned were the student not placed in an

1 alternative education program;

2 (2) the student's parole or probation officer or, in  
3 the case of a student who does not have a parole or probation  
4 officer, a representative of the local juvenile probation  
5 department;

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

8 (4) a school district designee selected by the board  
9 of trustees; and

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

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

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

19 (1) threatens the safety of other students or  
20 teachers;

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

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

24 (d) If the committee recommends that the student remain in  
25 the alternative education program, the board of trustees shall  
26 continue the student's placement in the alternative education  
27 program unless the board determines that the student's presence in



1 the regular classroom:

2 (1) does not threaten the safety of other students or  
3 teachers;

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

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

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

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

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

27 Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except

1 as provided by Section 37.304(b), a school district shall determine  
2 whether to place a student to whom this subchapter applies and who  
3 transfers to the district in the appropriate alternative education  
4 program as provided by Section 37.309 or in a regular classroom.  
5 The school district shall follow the procedures specified under  
6 Section 37.306 in making the determination.

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

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

17 (1) the memorandum of understanding entered into  
18 between the school district and juvenile board under Section  
19 37.011(k) provides for the placement of students to whom this  
20 subchapter applies in the juvenile justice alternative education  
21 program; or

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

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

1 manner as a juvenile justice alternative education program is  
2 entitled to funding under Section 37.012 for a student who is  
3 expelled and placed in a juvenile justice alternative education  
4 program for conduct for which expulsion is permitted but not  
5 required under Section 37.007.

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

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

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

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

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

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

26 Sec. 37.313. CONFLICTS OF LAW. To the extent of any  
27 conflict between a provision of this subchapter and a provision of

1 Subchapter A, this subchapter prevails.

2 SECTION 4. Subchapter B, Chapter 402, Government Code, is  
3 amended by adding Section 402.0281 to read as follows:

4 Sec. 402.0281. INTERNET SERVICE PROVIDER DATABASE.

5 (a) The attorney general shall establish a computerized database  
6 containing contact information for all Internet service providers  
7 providing service in this state. The contact information must  
8 include:

9 (1) the name and physical address of the person  
10 authorized to accept service of process for the Internet service  
11 provider; and

12 (2) the physical address of the Internet service  
13 provider's principal place of business in this state.

14 (b) At the request of a district attorney, criminal district  
15 attorney, county attorney, law enforcement agency of this state, or  
16 local law enforcement agency, the attorney general shall allow the  
17 requestor access to the database to expedite the  
18 information-gathering process of a criminal investigation  
19 conducted by the requestor concerning an offense under Section  
20 33.021, Penal Code.

21 SECTION 5. Section 414.005, Government Code, is amended to  
22 read as follows:

23 Sec. 414.005. DUTIES. The council shall:

24 (1) encourage, advise, and assist in the creation of  
25 crime stoppers organizations;

26 (2) foster the detection of crime and encourage  
27 persons to report information about criminal acts;

1           (3) encourage news and other media to broadcast  
2 reenactments and to inform the public of the functions of crime  
3 stoppers organizations' operations and programs;

4           (4) promote the process of crime stoppers  
5 organizations to forward information about criminal acts to the  
6 appropriate law enforcement agencies; ~~and~~

7           (5) help law enforcement agencies detect and combat  
8 crime by increasing the flow of information to and between law  
9 enforcement agencies;

10          (6) create specialized programs targeted at detecting  
11 specific crimes or types of crimes, including at least one program  
12 that:

13                 (A) encourages individuals to report sex  
14 offenders who have failed to register under Chapter 62, Code of  
15 Criminal Procedure; and

16                 (B) financially rewards each individual who  
17 makes a report described by Paragraph (A) that leads or  
18 substantially contributes to the arrest or apprehension of a sex  
19 offender who has failed to register under Chapter 62, Code of  
20 Criminal Procedure; and

21          (7) encourage, advise, and assist crime stoppers  
22 organizations in implementing any programs created under  
23 Subdivision (6), including a program specifically described by  
24 Subdivision (6).

25          SECTION 6. Subsection (b), Section 3.03, Penal Code, is  
26 amended to read as follows:

27          (b) If the accused is found guilty of more than one offense

arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2) an offense:

(A) under Section 33.021 or an offense under Section 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section; or

(3) an offense:

1 (A) under Section 21.15 or 43.26, regardless of  
2 whether the accused is convicted of violations of the same section  
3 more than once or is convicted of violations of both sections; or

4 (B) for which a plea agreement was reached in a  
5 case in which the accused was charged with more than one offense  
6 listed in Paragraph (A), regardless of whether the accused is  
7 charged with violations of the same section more than once or is  
8 charged with violations of both sections.

9 SECTION 7. Subsection (f), Section 33.021, Penal Code, is  
10 amended to read as follows:

11 (f) An offense under Subsection (b) is a ~~[state-jail]~~ felony  
12 of the third degree, except that the offense is a felony of the  
13 second degree if the minor is younger than 14 years of age or is an  
14 individual whom the actor believes to be younger than 14 years of  
15 age at the time of the commission of the offense. An~~[, and an]~~  
16 offense under Subsection (c) is a felony of the second ~~[third]~~  
17 degree~~[, except that an offense under Subsection (b) or (c) is a~~  
18 ~~felony of the second degree if the minor is younger than 14 years of~~  
19 ~~age or is an individual whom the actor believes to be younger than~~  
20 ~~14 years of age]~~.

21 SECTION 8. Subsection (d), Article 15.27, Code of Criminal  
22 Procedure, is repealed.

23 SECTION 9. Subchapter I, Chapter 37, Education Code, as  
24 added by this Act, applies only to an offense committed on or after  
25 the effective date of this Act. An offense committed before the  
26 effective date of this Act is governed by the law in effect when the  
27 offense was committed, and the former law is continued in effect for

1 that purpose. For purposes of this section, an offense was  
2 committed before the effective date of this Act if any element of  
3 the offense occurred before that date.

4 SECTION 10. The attorney general shall ensure that the  
5 database required under Section 402.0281, Government Code, as added  
6 by this Act, is fully operational not later than April 1, 2008, and  
7 not later than June 1, 2008, shall begin allowing requesting  
8 parties access to that database as described by that section.

9 SECTION 11. Subsection (b), Section 3.03, and Subsection  
10 (f), Section 33.021, Penal Code, as amended by this Act, apply only  
11 to an offense committed on or after September 1, 2007. An offense  
12 committed before September 1, 2007, is covered by the law in effect  
13 when the offense was committed, and the former law is continued in  
14 effect for that purpose. For the purposes of this section, an  
15 offense was committed before September 1, 2007, if any element of  
16 the offense occurred before that date.

17 SECTION 12. This Act takes effect September 1, 2007.



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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 6 passed the Senate on March 26, 2007, by the following vote: Yeas 29, Nays 0; May 24, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 25, 2007, House granted request of the Senate; May 27, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 6 passed the House, with amendments, on May 23, 2007, by the following vote: Yeas 149, Nays 0, one present not voting; May 25, 2007, House granted request of the Senate for appointment of Conference Committee; May 27, 2007, House adopted Conference Committee Report by the following vote: Yeas 143, Nays 0, two present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor